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THE CREATION OF PETROLEUM COUNTY:  
A CASE STUDY IN "COUNTY-BUSTING"

By

Joanne Marie Hassing

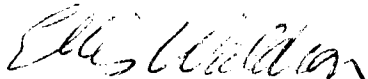
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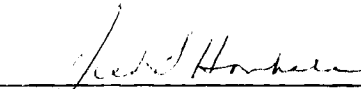
Presented in partial fulfillment of the requirements for  
the degree of  
Master of Arts

UNIVERSITY OF MONTANA

1966

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Dean, Graduate School

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## CHAPTER I

### INTRODUCTION

The years 1910 to 1925 have been called the "County-Busting Era" in Montana. In less than fifteen years, the number of counties doubled from twenty-eight to fifty-six. Admitted to statehood in 1889 with but sixteen counties, the state gained twelve more by 1910. Then, spurred by the penetration of the railroad into its eastern and central areas and by the rise of the wheat cultivation after 1910, the number of Montana counties increased twofold in half a generation.

It must be recognized, of course, that the phenomenon was regional in nature and probably characteristic of a general stage of economic and political growth. In the two decades between 1900 and 1920, several other western states were engaged in the same kind of political enterprises.<sup>1</sup> The concern here is to explore in some depth the phenomenon as it occurred in one central Montana county which happens to have been the last created, and one of the least in terms of population and general economic development.

In the area of Montana west of the continental divide and along the mountain's spine as far east as Yellowstone County, only three new

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<sup>1</sup>During these twenty years, Idaho gained twenty-three new counties; North Dakota, thirteen; South Dakota, ten; and Wyoming, eight. U.S. Bureau of the Census, Fourteenth Census of the United States: 1920. Population, I, 139. Cited hereafter as U.S. Census . . . 1920, I.

counties were created after 1910. Metal mining had developed this area economically decades earlier. Mining development necessitated accessibility and transportation. Hence, three major railroads--the Great Northern in 1889, the Northern Pacific in 1883, and the Milwaukee in 1908--as well as numerous spurs, found their way into this region and gave it the greatest network of tracks in the state. With the railroad came a concentration of population as well as the means for developing still other industries, particularly lumbering and general farming. Thus, paralleling the early economic development of the area was its early division into nineteen counties; only Stillwater (1913), Mineral (1914), and Lake (1923) emerged in the "county-busting era."

Montana's northern border area, the "High Line," experienced a different pattern of economic development and county division. Containing but three counties in 1910, the "High Line" gained ten counties more in eight years. This region, once predominantly engaged in livestock producing, turned to wheat cultivation after 1910. The Great Northern Railroad, which entered northern Montana in 1887, was largely responsible for both the economic conversion to wheat and population influx. As one historian indicated, "The actual development of the High Line country began about 1910 when homesteaders with their barbed wire fences rushed in under railroad promotion in anticipation of the opening of the Indian reservations."<sup>1</sup> The contribution of the Great Northern to the development has been noted by historians Merrill G. Burlingame and K. Ross Toole.

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<sup>1</sup>Carl. M. Gunderson, "The High Line," History of Montana, ed. Merrill G. Burlingame and K. Ross Toole (New York: Lewis Historical Publishing Co., Inc., 1957) II, Chapter XX, p. 101.



The contribution of the Great Northern to the development of the entire northern section of the state is of highest importance . . . . The colonizing work of the railroad was extensive from the beginning. Its publicizing of dry land farming caused great difficulty for many years since the area could not support all of the farmers by the agricultural methods which Mr. (James J.) Hill promised the unwary homesteader would assure success. The railroad and the region have worked together; both have a characterization in the name of the company's crack train. "The Empire Builder."<sup>1</sup>

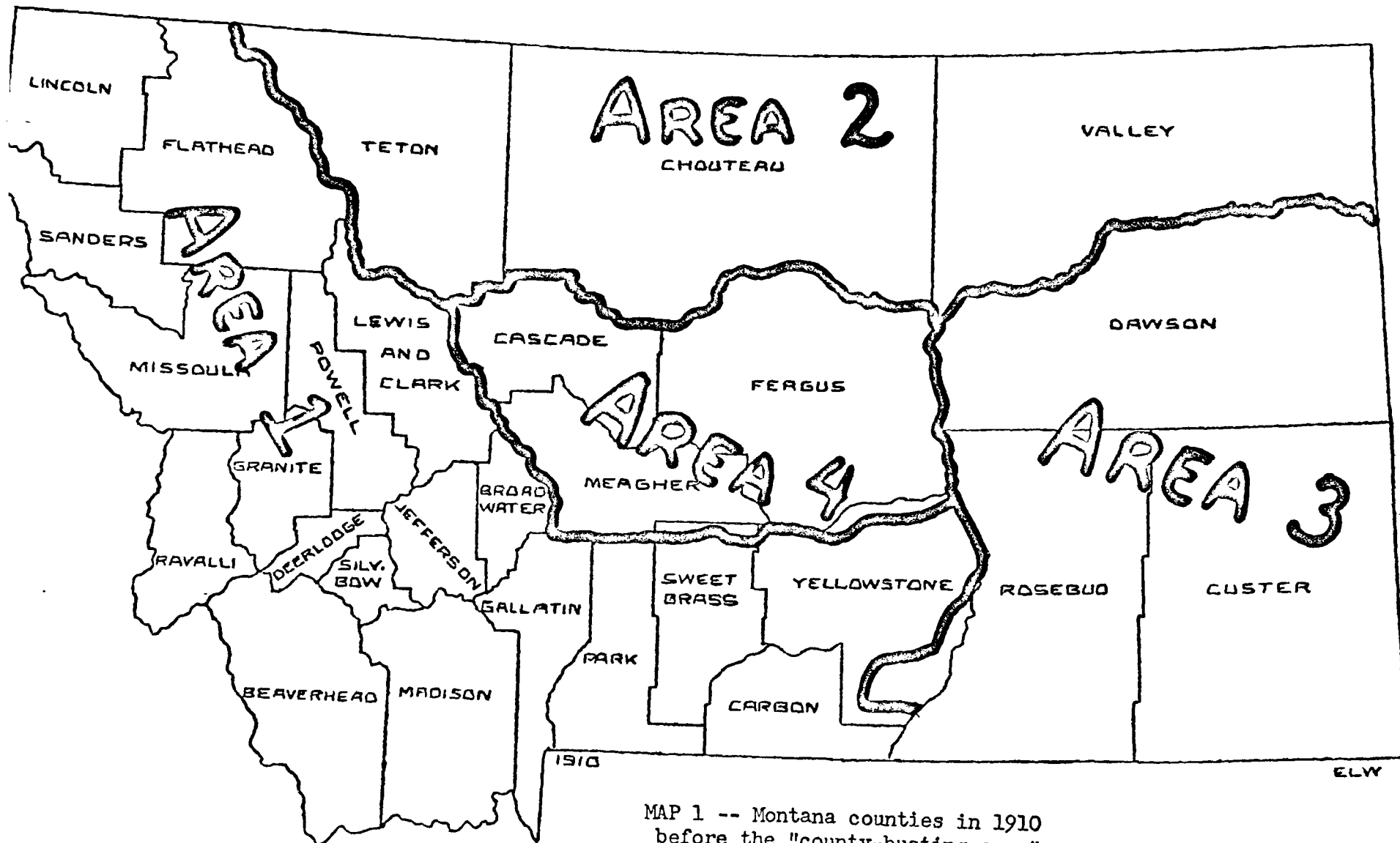
Chouteau County was one of the original High Line counties. Originally a cattle region, the economy turned to wheat production after 1910, with the influx of homesteaders encouraged by railroad promotion. Despite loss of territory to new counties, Chouteau County soon ranked third in the state in production of spring wheat and first in the production of red winter wheat.<sup>2</sup> Hill County was the first new county created in this region after 1910; appropriately enough it was named after James J. Hill, the Great Northern Railroad magnate. Toole County came into existence in 1914. The state legislative assembly created Glacier, Pondera, and Roosevelt Counties in 1919, and four more counties were established by local petition and election--Blaine, Sheridan, Phillips, and Daniels.

In addition to the other factors involved, the division of the High Line into its present thirteen counties was undoubtedly encouraged by one individual in particular, Mr. Daniel McKay. Indeed, as a result of his professional entanglements in the county division movement, McKay

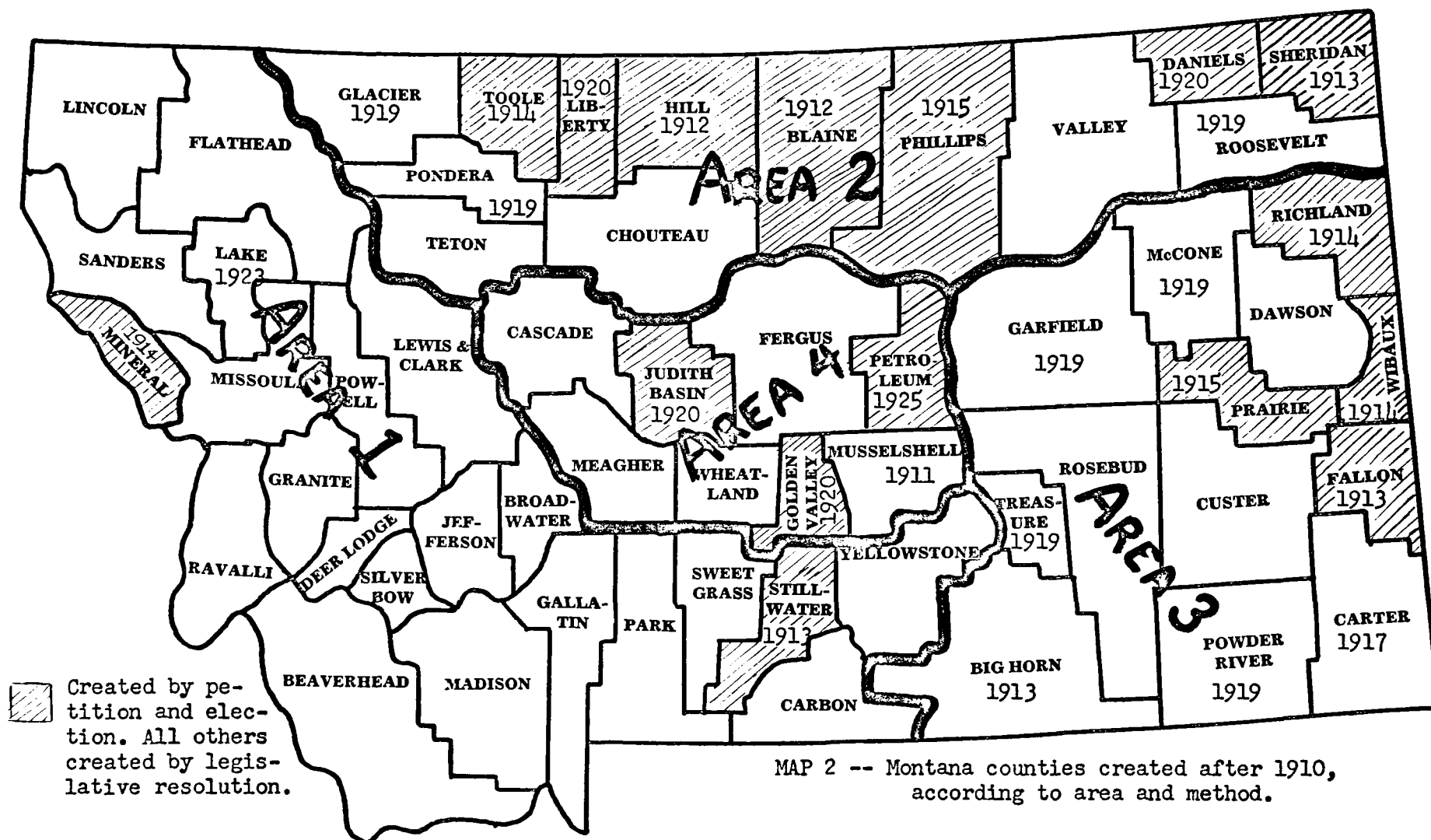
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<sup>1</sup>Merrill G. Burlingame and K. Ross Toole, History of Montana, Vol. II (New York: Lewis Historical Publishing Co., Inc., 1957), pp. 77-78.

<sup>2</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana Resources and Opportunities Edition (Helena, 1926), p. 267. Cited hereafter as Montana Resources . . ., 1926; and The Montana Almanac, 1959-60, Montana State University (Missoula: Montana State University Press, 1958), p. 382. Cited hereafter as The Montana Almanac, 1959-60.

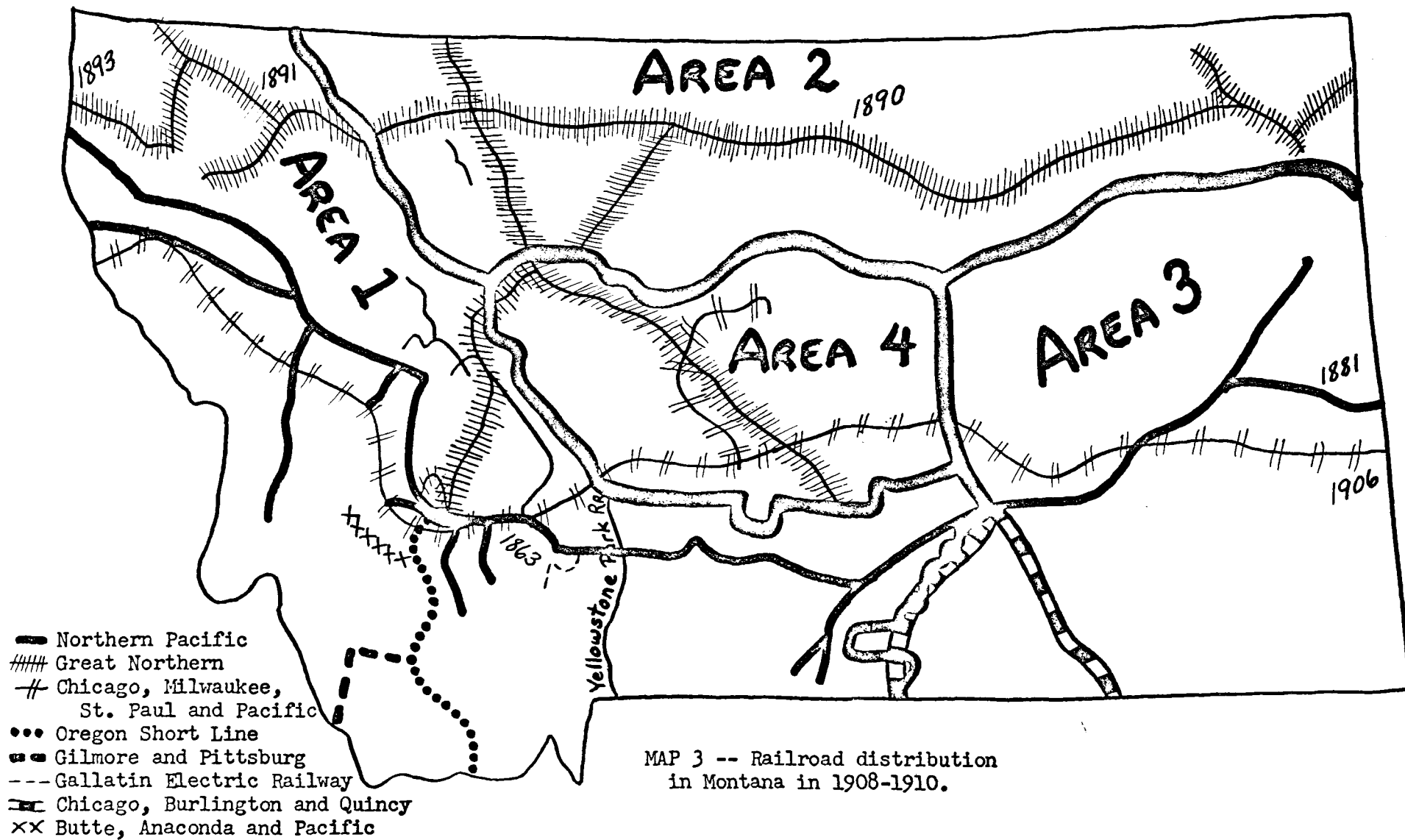


MAP 1 -- Montana counties in 1910  
before the "county-busting era,"  
according to area.



Area 1 -- 3 new counties, 1913-1923  
 Area 2 -- 10 new counties, 1912-1920;  
 increased from 3 to 13.

Area 3 -- 9 new counties, 1913-1919;  
 increased from 3 to 12.  
 Area 4 -- 5 new counties, 1911-1925;  
 increased from 3 to 8.



MAP 3 -- Railroad distribution  
in Montana in 1908-1910.

became known as the "County-Splitter."<sup>1</sup> Little has been written about him<sup>2</sup> and his actual influence is indeterminate; McKay has been credited, however, with involvement in the creation of no fewer than fourteen and as many as twenty of Montana's counties created after 1911. The majority of these counties were located in northern or northeastern Montana.

Regardless of the locality involved, McKay's contribution to the campaigns evidently followed a pattern.<sup>3</sup> Appealing to the wheat-producing dryland homesteaders, McKay damned "the interests" which might block the settlers' use of the land; he stressed their political responsibilities, insisting that more counties would provide greater political opportunities for newcomers. At his meetings, McKay would remind homesteaders of the poor roads and remote county seats. In a more subtle manner, he attempted to enlist the support of stockmen, bankers, property owners, and newspaper publishers. He suggested to stockmen that they

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<sup>1</sup>Joseph Kinsey Howard treats Dan McKay in Montana, High, Wide and Handsome (New Haven: Yale University Press, 1943), pp. 236-43. In so doing, Howard describes the mechanics of McKay's profession as follows: "Dan approached men who could expect to be political officeholders in the new county, and property owners who would benefit by the expected boom. For a flat fee plus expenses he would get the petitions signed, campaign for the new county, do the necessary scheming and bribing and rabbleroxing. Among his first sponsors was usually the owner of lots in the prospective county seat which might be bought for a courthouse.

The money was not important to Dan McKay, although he was careful to see that he got it . . . . . The campaigns gave him a sense of power and everybody knew his name--a name cursed and cheered in the newspapers, on street corners, in the wheat fields and in the legislature."

<sup>2</sup>Frontier Editor also contains a chapter which deals specifically with Daniel McKay; see pp. 99-106. (Daniel Whetstone, Frontier Editor (New York: Hastings House Publishers, Inc., 1956)).

<sup>3</sup>Whetstone, pp. 101, 104-05; and Howard, pp. 236-39.

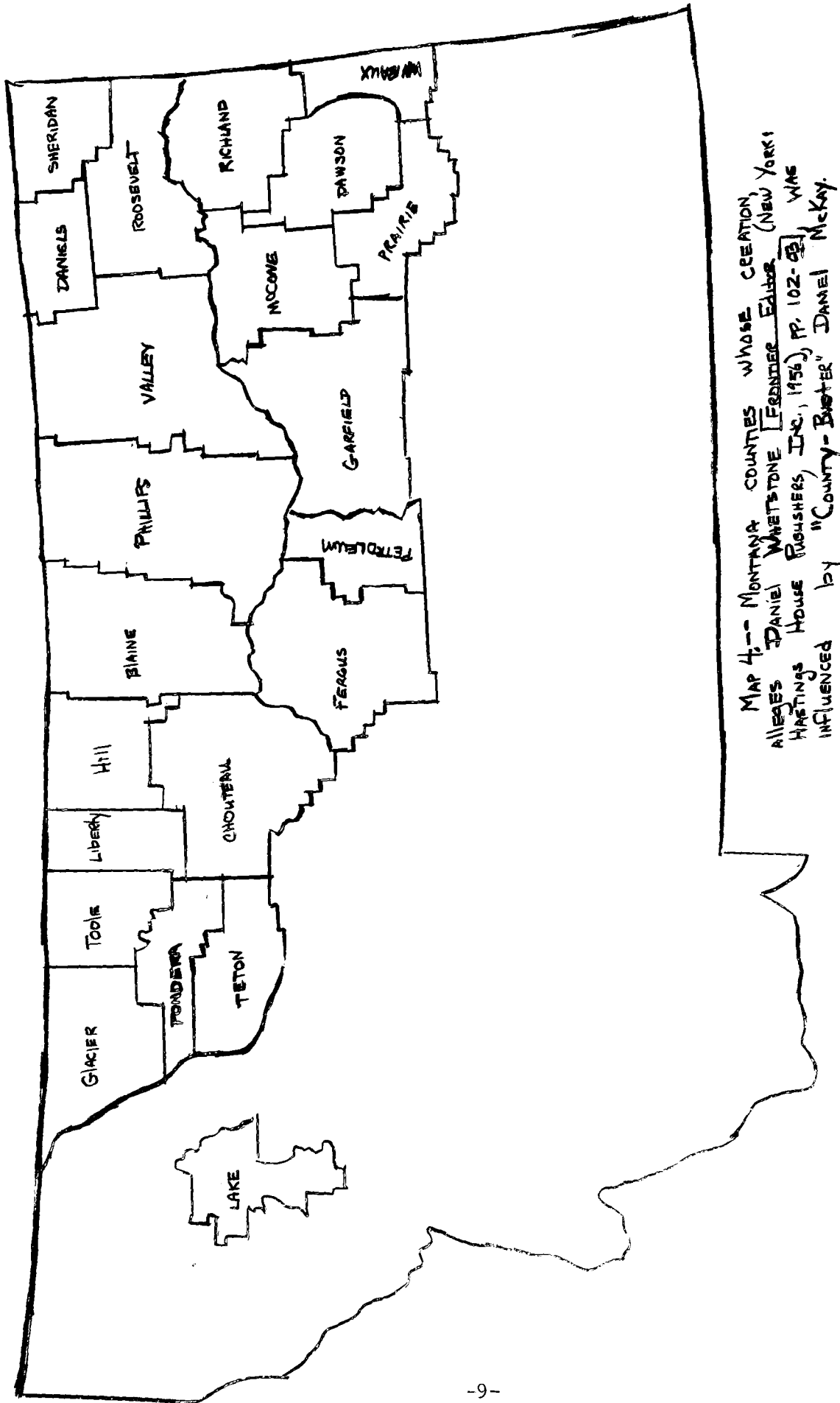
might obtain political offices. To bankers, McKay intimated that their banks could become county depositories. Finally, trying to reverse the sentiments of alien newspaper editors, the "county-splitter" proposed the possibility that the paper would obtain printing contracts in a new county. As a result of his efforts, McKay often had several conflicting elements supporting his promotional efforts--"the ruralist not knowing the sentiments of the townspeople, the townspeople not being aware of the line he was using to get the backing of the voters on the farms."<sup>1</sup>

Daniel Whetstone's map illustrating the activities of county-splitter McKay seems to indicate that McKay was less involved in the southeastern section of Montana. Yet this region also underwent considerable county division in the "county-busting era." Like the "High Line," the southeastern region also comprised but three counties in 1910--Dawson, Rosebud, and Carter. From an area once exclusively devoted to stock-raising, the eastern section became a dominantly non-irrigated farm area; in response to the demands of an optimistic electorate, nine additional counties emerged in 1913-19. Because railroads had yet to penetrate the western section of former Dawson County, the agricultural development of that area had been retarded. Thus, stockraising still predominated in the area when the additional counties were formed there. Richland County, undoubtedly named for the area's potentialities, was segregated from Dawson by a 1913 petition and election. Legislative resolutions in 1919 produced McCone and Garfield Counties.

Six counties were created from the original boundaries of Custer

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<sup>1</sup>Whetstone, p. 104.



County, five of them during the county-busting decade; the sixth, Rosebud County had emerged earlier in 1901. Carter County in 1917 and Powder River in 1919 also resulted from resolution by the legislature. Petition and election produced Fallon and Big Horn Counties in 1913.

The area of the origin of these counties had developed initially as a livestock and sheep center. Then the severe winter of 1886-1887, together with the migration of homesteaders between 1907 and 1917, converted the area temporarily to dry land wheat farming. Although penetrated early by the Northern Pacific, this area was large and was not wholly served until later by spur lines and by the Milwaukee Road in 1906. This enabled the area to become the significant agricultural region which it remained until the drought years after 1917. At that time, numerous homesteads were consolidated. The region, which was ill-adapted to agriculture, reverted once more to stock raising. Yet during its brief era of wheat production, the eastern Montana region south of the High Line had divided into twelve counties. Only the High Line itself had experienced as many county divisions in such a brief period.

The last region to be considered is Central Montana. Central Montana, containing the counties of Cascade, Meagher, and Fergus in 1910, was a mining and livestock region in its earliest days. In the twentieth century, however, the rich wheat acreages of Fergus County and its Judith Basin soon brought the region to a second-place position in the production of that crop. In 1910, and again in 1920, Central Montana accommodated about one-fifth of the state's farms.<sup>1</sup> Thus, Central Montana had become

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<sup>1</sup>Montana Resources . . ., 1926, pp. 52, 115.



a leading wheat producer in the decade 1910-1920. During the same period, fourteen new counties emerged from the three which comprised the area in 1910.

The 1911 legislature formed Musselshell County from parts of Fergus and Yellowstone. Wheatland County, with a name indicative of its dryland wheat culture, came to life in April, 1917, also by resolution of the state legislature. Judith Basin County, formed from the heart of the wheat land, and Golden Valley County were responses to petitions by the people in 1919. A fifth county, Petroleum, was also created by petition and election. Formed in 1925 from eastern Fergus, Petroleum County became the last of Montana's counties to emerge. An examination of its creation in particular, and of developments in Central Montana which led to its creation, are the central concern of the chapters which follow.

Thirty-two counties, then, came into existence after the turn of the century. Twenty-six of this number had been created during the county-splitting 1910-1920 decade. Yet even the number created does not adequately illustrate the fever of that decade. Only an examination of the legislative proposals for county creation can reveal the full momentum of the era. In 1911, for example, eleven bills requesting the creation of counties were introduced in the Montana House of Representatives; three others were introduced in the Senate. All proposals involved either the area of the High Line, central or eastern Montana.<sup>1</sup>

By 1913-14, however, the effect of a 1911 act to permit county creation by petition and election of the residents seemed apparent.

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<sup>1</sup>Senate Journal 1911; and House Journal 1911.

Probably because so many areas were utilizing that alternative, the legislature witnessed a reduction in the number of requests for creation by resolution. Consequently, only two new county bills were introduced in the House and five in the Senate. All except one of the requests was for county creation in central or eastern Montana. Two years later, the 1915 legislative assembly received no bills for county creation.

Montana's 1917 legislative assembly witnessed renewed efforts for county formation by resolution. The introduction of three bills in the House and two in the Senate indicated particularly an increased interest in the newly settled eastern section of the state. But it was the 1919 legislature which received, acted upon, and passed more new county bills than had any previous legislature. Between January 6 and March 6, 1919, nineteen such bills originated in the Montana House of Representatives, while one bill was introduced in the Senate. Indeed, the landslide of House introductions became so burdensome that one newspaper commented on January 23 that ". . . steps to dam the flood of bills to create new counties . . ." had been attempted but failed. These bills, the paper continued, ". . . threatened to exclude other legislation."<sup>1</sup> Significantly, thirteen of the bills dealt with some portion of central Montana, five with land primarily in eastern Montana. Only two sought to create a new county west of the Rockies. The sixteenth legislature terminated in March after creating seven counties, all in the area east of the mountains.

The state-wide fervor for county creation prevalent during the years 1910-1920 had for the most part, subsided by 1921. Three years of drought

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<sup>1</sup>Fergus County Democrat, January 23, 1919.

had apparently undermined the previous era's feeling of prosperity, and at least indirectly had subdued the county divisionists as well. In the state legislature, introductions of new county bills dwindled to five. But the requests were ignored and the 1921 legislature created no counties. The legislature, in fact, created just one more county after 1919--Lake County in 1923.

Proponents of the creation of the various new counties during the era utilized one of two methods provided for such creation--legislative resolution or petition and election. The former method created eleven new counties in the period 1910-1925, the latter, seventeen. In order to understand fully the significance of such figures, it is necessary to understand the constitutional and statutory provisions for such methods which existed in Montana during this period.

The Constitution of the State of Montana, as adopted in 1889, provided that the counties of the territory of Montana at the time of its entrance into the union would be the counties of the state "until otherwise established or changed by law."<sup>1</sup> Article XVI, section 3, declared further that "in all cases of the establishment of a new county, it shall be held to pay its ratable proportions of all existing liabilities of the county or counties from which it is formed . . . ." <sup>2</sup> From these two sections, the legislature received an implied power to create new counties. Thirteen new counties had been created by legislative resolution on the basis of these implications from the constitution by

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<sup>1</sup>Montana, Constitution, Art. XVI, sec. 1.

<sup>2</sup>Montana, Constitution, Art. XVI, sec. 3.

1911, when the legislature authorized an alternative mode by petition and election.

That such authority derived from the constitution has been upheld in several cases. The existence of counties as subdivisions of the state for purposes of local government implied that the state legislature had the power to create them or change those already established.<sup>1</sup> As early as 1887, such power of the legislature was challenged and upheld. In Halliday v. Sweet Grass County, the court held that the constitution (Art. V, sec. 26) did not forbid the territorial legislature from creating counties. The essence of the court's opinion was that

creating a new county by special act is not forbidden by the state constitution, and matters necessarily incidental to the creation of a new county, which are provided for in the act creating it, solely for the purpose of organizing the new county, and putting it in motion as one of the governmental subdivisions of the state, do not come within either the letter or the spirit of the ingibitions of section 26, article 5, of the constitution.<sup>2</sup>

On still other occasions, the court emphasized the legislative power to create counties. In Sackett v. Thomas, for example, the court stated in 1901 that by Art. XVI, secs. 1 and 3, the constitution recognized that the state legislature could create new counties, change those already established, and alter their boundaries; and noted that this power had been exercised in many previous instances.<sup>3</sup> In still another case, State

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<sup>1</sup>John F. Dillon, Commentaries on the Law of Municipal Corporations, Vol. I (4th ed.; Boston: Little Brown & Co., 1890), secs. 23, and 25.

<sup>2</sup>Halliday v. Sweet Grass County, 19 Mont. 364, 48 Pac. 553 (1897).

<sup>3</sup>State ex. rel. Sackett v. Thomas, 25 Mont. 226, 64 Pac. 503 (1901).

ex. rel. Geiger v. Long, the court stated that although the legislature had not power to locate a county seat--obviously a necessary institution in a county--nevertheless, such prohibition did not mean that the legislature had no power to create a new county. On the contrary, stated Mr. Justice Smith, "it is settled law that the legislature had such power . . ."<sup>1</sup>

The legislature continued to utilize its constitutional powers to create counties after 1911. But in that year, the Leighton Act<sup>2</sup> provided an alternative to statutory creation by the "petition and election" method. This original petition and election law provided a framework for later statutory regulations.

Section 1 of the act set the minimum standards which must be met by the proposed county. The county could not be established if (1) such creation would reduce the assessed valuation of any county to less than five million dollars, (2) if the new county would have an assessed valuation of less than four million dollars, or (3) if the county from which the new county was taken would be reduced to less than eight hundred square miles of surveyed land. In addition, no county boundary line could

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<sup>1</sup>State ex. rel. Geiger v. Long, 43 Mont. 401, 117 Pac. 104 (1911). Mr. Justice Smith, in reaffirming such legislative power, continued, "Until the last session of the legislative assembly (1911), we had no general law providing for the creation of new counties but notwithstanding this, the legislature has created, since the adoption of the Constitution, the following counties, viz.: Flathead, Valley, Teton, Ravalli, Granite, Carbon, Sweet Grass, Broadwater, Powell, Rosebud, Sanders, Lincoln, and Musselshell. If we should now hold that the legislature was without power or authority to create these counties, the result would be most disastrous. The legislature has, then, such power."

<sup>2</sup>The act received its unofficial name from the sponsor of the bill, Dr. Ira A. Leighton (Republican, Jefferson). Dr. Leighton was a sometime physician at the State School for Deaf and Blind at Boulder, Montana.

pass within eighteen miles of the county seat of any proposed county. Finally, the new county was declared liable for its share of the debts of the parent county.

Section 2 of the 1911 act stipulated the procedures to be used in creating a county by petition and election. First a petition asking for the election must be signed by one-half or more of the registered voters from each section affected must sign the petition. Also to be included on the petition were the following: a description of the proposed county's boundaries, together with a statement that no line passed within eighteen miles of the county seat of any county to be divided; a declaration of the assessed valuation, including the valuation and number of railroad miles in the territory; the area in square miles remaining in the county or counties to be divided; the proposed name of the county to be formed; and finally, "a prayer that such proposed new county be organized into a new county under the provisions of this act."<sup>1</sup> After obtaining the requisite signatures, the petitioners must then present the petition to the county commissioners of the parent county, or of the county from which the largest area would be taken.

After the petition had been filed with them, the county commissioners were required to fix a date for the hearing of both petitions and objections. The hearing date could not be more than thirty days after the date of filing. The date for the hearing must be published in a newspaper of the original county (and of a new one, if one were in existence). Petitioners also were required to file a bond which obligated them to pay the expenses

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<sup>1</sup>Mont. Laws 1911, Ch. 112, sec. 2.

of the proceedings and election. The bond, not to exceed five thousand dollars, was to be designated by the board and made payable to the county where filed.

At the hearing the board of county commissioners was to determine the proposed county's boundaries as well as the validity of the statements in the petition. Any petitions of exclusion from the proposed new county were also to be considered. If 50 per cent or more of the qualified voters in an existing county requested exclusion of their territory from the new county, the boundaries of the new county must be altered accordingly. If the exclusion would reduce the assessed valuation of the parent county to less than four million dollars, the new county could not be created. Creation would also be prohibited if the excluded territory would be isolated from its former county.

If the county commissioners found that the requirements for creation of a new county had been met, preparations for an election must be made by the county commissioners. The election itself was to be conducted according to the general election laws of Montana. Section 3 of the law provided for the date, time, and other technicalities of the election. To vote, an individual must be a qualified elector and a six-month resident of the original county. The ballot must contain the proposition for or against the creation, a choice of officers, and the choice of a new county seat, a city must have been nominated by at least twenty-five electors. After the special election, the town with a majority of the votes would be designated as county seat. If no town received a majority, the town with the highest votes was designated temporary county seat; the final decision would then be left until the next general election. Once

selected, however, the county seat could not be changed again except by law.

Election returns were to be filed with the county commissioners. If the county was to be created from one county, the measure passed if 65 per cent of the voters in the proposed county voted "yes." If, however, the county was to be created from two or more counties, 65 per cent affirmative votes were required in each of the counties affected. Provided that the measure passed, the board of county commissioners declared by resolution, that the county had been created, its name, its county seat, and its officers elected. A certified copy of the resolution would then be filed with the secretary of state,

. . . and (according to the Mont. Laws 1911, Ch. 112, sec. 3) from and after the date of such filing said new county shall be deemed fully created, and the organization thereof shall be deemed completed and such officers shall be entitled to enter immediately upon the duties of their respective offices upon qualifying in accordance with law and giving bonds for the faithful performance of their duties as required by the laws of the state.<sup>1</sup>

Should more than 35 per cent of the voters oppose the creation, the proposal would fail. The county commissioners would then pass a resolution to that effect. If a measure for the formation of a county failed, no further proceedings for division could be instituted for two years following such determination.

Under the provisions of the original petition and election act in 1911, two counties--Blaine and Hill--were created. Within a year of their creation, the first of several amendments to the act was passed. The basic framework of the statute remained unchanged, but the standards

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<sup>1</sup>Mont. Laws 1911, Ch. 112, sec. 3.



which must be met by a proposed county would be amended numerous times in subsequent years. When the legislative atmosphere was one favorable to creation of counties by petition and election, the standards would be lowered. When, on the other hand, an atmosphere inimical to such creation existed, the provisions would be made more stringent.

The first amendment was enacted in 1913.<sup>1</sup> To facilitate creation by petition and election, the required minimum assessed valuation of the proposed county was reduced from four million dollars to three million dollars. A five million dollar minimum valuation was still required for the remaining parent county, however. Another significant change reduced the requisite vote for creating a county. Rather than a 65 per cent affirmative vote, a proposed county could be created if but 51 per cent of the votes were affirmative. Under the amendments of 1913, eight new counties--Stillwater, Big Horn, Fallon, Sheridan, Richland, Wibaux, Toole, and Mineral--were created by petition and election.

In 1915, probably because of the rash of new counties, amendments to the act made creation by petition and election more difficult than at any time since the adoption of the original law.<sup>2</sup> The amendments raised the required assessed valuation of a new county to five million dollars. More significantly, the original county could be left with no less than eight million dollars in assessed valuation. Further tightening of the provisions occurred in section 1 which stipulated that no new county boundary could pass within twenty miles of the old county seat.

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<sup>1</sup>Mont. Laws 1913, Ch. 133, secs. 1, 4.

<sup>2</sup>Mont. Laws 1915, Ch. 139.

Section 4 also made creation more difficult when it restored the earlier 1911 requirement of a 65 per cent affirmative vote as necessary for creation. Still another tightening requirement provided that the county from which the territory was taken could be left with no less than twelve hundred square miles; previously, this figure had been eight hundred square miles. In addition, withdrawals of signatures from petitions had to be filed with the County Clerk on or before the date of the hearing; and exclusion petition withdrawals had to be made within three days after the filing of the exclusion petition. Finally, the amendments provided that a 35 per cent negative vote could defeat the proposition. And, if created, the county would not become official until ninety days after the resolution had been filed with the Secretary of State. Under these stricter restrictions, only two counties--Phillips and Prairie--were created by petition and election.

The amendments made to the petition and election act in 1919 again facilitated creation by that method. The legislature, which had created nine counties in the previous two sessions, probably wished to transfer the creation movements outside of the legislature. Hence, creation by petition and election was made easier by reducing the required assessed valuation back to four million dollars; and the required area of the proposed county was reduced from twelve hundred square miles to one thousand square miles. In addition, the minimum distance required between the county line and the original county seat dropped to fifteen miles. A third amendment stipulated that a petition or protest for the exclusion of territory must be filed at least one day before the hearing; such territory must contain not less than thirty-six square miles

TABLE 1

DISTRIBUTION OF THE CREATION OF COUNTIES IN MONTANA,  
1910-1926, ACCORDING TO METHOD

Year	Number Created	
	Legislative Resolution	Petition and Election
1910		
1911	1	
1912		2
1913		4
1914		4
1915		2
1916		
1917	2	
1918		
1919	7	
1920		4
1921		
1922		
1923	1	
1924		
1925		1
Total	11	17

and be totally within one county. A final provision reduced the requisite petition signatures from 65 to 58 per cent.<sup>1</sup> Under these provisions of 1919, five additional Montana counties were created. Daniels, Liberty, Judith Basin, Golden Valley and Petroleum County emerged by petition and election of residents between 1919 and 1925.

Other than those modifications previously mentioned, the 1919 laws providing for the formation of counties by petition and election were substantially those of the previous years. Chapter 226, Montana Laws, 1919 was subsequently re-enacted and incorporated into the Rev. Codes Mont. (1921), secs. 4390-4395. The only major subsequent change in the new county law occurred in 1929. County creation by petition and election then was made extremely difficult and apparently inhibited such creation permanently. For after the enactment of the 1929 revisions, no additional Montana counties were created.

The prohibitive amendments of 1929 increased both the assessed valuation requirements and the area requirements to such an extent that creation would seem unlikely. A proposed county must contain no less than ten million dollars in assessed valuation and no less than one thousand square miles in area. Moreover, the parent county must be left with no less than twelve million dollars in assessed valuation or twelve hundred square miles of land exclusive of Indian reservations or forest reserves.<sup>2</sup> With the establishment of these provisions, the "county-busting era" came to an end. The movement had reached its height

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<sup>1</sup>Mont. Laws 1919, Ch. 226.

<sup>2</sup>Mont. Laws 1929, Ch. 106.

in 1913-14 when eight counties had been created by the petition and election methods, and in 1919, when seven counties had been formed by legislative resolution.

The evolution of Montana counties during this period has been examined both by area and by method of creation. Although it is not the purpose of this paper to examine the reasons for the increase of Montana counties in general, the increase may be attributed to a combination of factors. The high wheat prices during the war period encouraged the widespread conversion to wheat production<sup>1</sup> and stimulated the increase in population and a demand for governmental services. A change in legal regulations by the enactment of the Leighton Act in 1911 made the creation of such counties by petition and election somewhat easier than by the older method of legislative resolution. The impact of the development of the railroads in the hitherto isolated central and eastern regions of Montana was of great importance in the movement for its part in bringing settlers and facilitating the marketing of wheat and goods; those who came in response to the high wheat prices of the era might not have done so without the increased railroad mileage and other improved transportation methods. Nor should possible political reasons such as the desire for a county seat or a state senatorship be ignored. The population of central, northern, and eastern Montana felt politically as well as economically isolated; hence, the age-old desire for "self-government" could become still another incentive to the county divisionists.

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<sup>1</sup>Roland R. Renne, Montana County Organization, Service and Cost: A Study of County Government With Suggestions for Its Improvements, Montana Experimental Station Bulletin No. 298, Montana State College (Bozeman: Bozeman Chronicle Printing, 1935), p. 2.

TABLE 2

EVOLUTION OF MAJOR STATUTORY REQUIREMENTS FOR COUNTY  
CREATION BY PETITION AND ELECTION

Year	Requirements						
	Assessed Valuation Proposed County	Assessed Valuation Parent County	Area, Proposed County	Area, Parent County	Distance, Proposed County Lines from old courthouse	% Residents Signatures on Petition	% Required for Passage
1911	\$4 million	\$5 million	not specified	sq. mi. 800	mi. 18	qualified 50	65 "yes"
1913	3	5	"	800	18	50	51
1915	5	8	"	1200	20	65	65
1919	4	8	1000 sq. mi.	1200	15	58	58
1929	10	12	1000 sq. mi.	1200	15	58	58

Numerous factors, then, spurred significantly by the impact of the railroad and the era's wheat production, combined to stimulate the creation of new Montana counties during the "county-busting era." In the remaining chapters, the factors combining to form one such county, Montana's last, will be examined.

## CHAPTER II

### DEVELOPMENT OF EASTERN FERGUS COUNTY

In the previous chapter, the influence of several factors upon population and economic expansion was observed as prominent throughout Montana. The livestock and sheep industries, increased railroad mileage and improved transportation facilities, dryland wheat production--these factors actuated and consistently affected the state's population and industrial growth. In eastern Fergus, these same factors, together with the impelling force of the discovery of oil, produced an effect paralleling that in the state as a whole. Beginning as early as 1877 with the founding of the sheep industry, eastern Fergus developed economically, first as a sheep and cattle region, later as an agricultural region, and finally as an area of considerable oil wealth.

Settlement of Fergus County itself began early in the nineteenth century when traders and trappers entered after 1820. Discovery of gold farther west led to migration through central Montana and subsequently to the establishment of a fort in 1873 near present-day Lewistown as protection against the Indians. In 1885, the territorial legislature designated the Lewistown site as the county seat of Fergus County.<sup>1</sup> Its dual importance as geographical center and county seat facilitated its early development. The rise of the Cattle industry and,

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<sup>1</sup>The Montana Almanac, 1959-60, p. 387.



in particular, the arrival of the "Jawbone" Railroad in 1902 and of the Milwaukee Road in 1908 further accelerated the development of Lewistown and western Fergus. Between 1900 and 1930 the population of Lewistown increased six-fold.<sup>1</sup> Increased railroad penetration and the rise of the wheat industry in the Judith Basin further developed western Fergus where most of the population of the county concentrated and the earliest economic enterprises began.

Probably the earliest industrial development in eastern Fergus occurred with the inauguration of the sheep industry in 1877. In that year Mr. Fred Lawrence trailed 400 sheep from Idaho into Fergus County, and thus initiated a vital enterprise. So significant to the region was the event that one historian said, "The sheep industry of the early days was the chief basis of the permanent prosperity of this region, contributing more than any other factor in the steady development of Montana's splendid inland empire."<sup>2</sup> Lawrence took up land for his sheep ranch on Flatwillow creek, initiating one of the first settlements southeast of Lewistown. Within two years, Mr. Lawrence's lead had been followed by seven additional sheepmen; by 1880 at least seventeen sheep ranchers had located in the region. These men introduced both a settlement and an industry to eastern Fergus.

Population of the Flatwillow creek area developed slowly at first;

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<sup>1</sup>U.S. Bureau of the Census, Fifteenth Census of the United States: 1930. Population, I, 642. Cited hereafter as U.S. Census. . . 1930, I. Lewistown grew from less than 1100 in 1900 to 3000 in 1910 and a high of 6,120 in 1920.

<sup>2</sup>P. M. Silloway, Silloway's History of Central Montana: A Review of the Development of Montana's Inland Empire (Lewistown: Fergus County Democrat, Inc., n.d.), p. 40.

the 1910 census indicated a population of but 113 for the Flatwillow and South Fork Flatwillow districts combined. But a steady growth during the following decade more than doubled the population of the area; the Census of 1920 registered a population of 218.<sup>1</sup>

Yet if the population development of the sheep section was slow to increase, the expansion of the industry itself was extremely rapid. Within two years of Lawrence's settlement on Flatwillow creek, new settlers contributed 7,580 additional sheep; large flocks, however, were not introduced into the region until after 1880. At that time, individual owners trailed in flocks of 1,000, 2,000, 1,550, and 3,300.<sup>2</sup> Eastern Fergus possessed good range land and water, both of which were necessary for sheep raising. The area also offered adequate timber, benchland and mountainous country to provide needed winter protection. With the territory so well-suited for raising sheep, the industry gained steadily in importance. By the spring of 1884, the sheep holdings of

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<sup>1</sup>All eastern Fergus census information has been computed from school census district figures of the 1910 and 1920 census reports. Correlations were difficult, however, since only the 1910 census districts were named as well as numbered, thereby permitting the location of the district with the county. Moreover, whereas there were but 68 districts in the Fergus County census of 1910, there were 193 in 1920 and 209 in 1930 (which included those contained in Petroleum County). Hence, population figures of eastern Fergus have been arrived at by determining, where possible, (1) which named and numbered 1910 districts were located in eastern Fergus, and (2) deducing which like-numbered districts in 1920 and 1930 would logically be the same eastern Fergus (or Petroleum County) districts. (U.S. Bureau of the Census, Thirteenth Census of the United States: 1910, Population, II, 1140); cited hereafter as U.S. Census . . . 1910, II; and U.S. Census . . . : 1920, I, 502.

<sup>2</sup>Anna Zellick, "A History of Fergus County, Montana, 1879-1915," (unpublished Master's dissertation, Dept. of History, University of Chicago, 1945), Ch. IV, p. 1.

seventeen owners in eastern Fergus totaled about 38,000 sheep.<sup>1</sup> Even a local woolgrowers' association had been formed.

The winter of 1886-1887, although severe, did not cause as many devastating losses to the sheepmen as it did to cattlemen. In fact, "unlike the cattle industry, the sheep industry was a growing one at this time."<sup>2</sup> Even the downward price of wool during the late 80's and 90's had little effect in curbing the growth of the sheep industry. In contrast to the cattle business which expanded in periods of high beef prices, the sheep industry developed as a result of the low cost of production.

The low cost of production of wool was the most important reason for the sheep industry's rapid development. A great outlay of capital was not necessary as there was plenty of open range which could be utilized along with privately owned land. Sheep were not only cheap in price, but they could be obtained on shares.<sup>3</sup>

Labor, too, was cheap. Consequently, except for marketing costs, raising sheep required less expense than many industries.<sup>4</sup>

The rapid development of the sheep industry in Fergus derived from all of the above factors. Its acceleration continued in the county until "eventually, sheep surpassed cattle in importance and became the leading

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<sup>1</sup>Silloway, p. 17.

<sup>2</sup>Zellick, Ch. III, p. 18.

<sup>3</sup>Zellick, Ch. IV, p. 4.

<sup>4</sup>Miss Zellick points out that marketing involved some expense although transportation was still quite low in cost. High freighting costs resulted because the wool was not shepped directly to the eastern markets. Instead it would be freighted to ". . . Fort Benton, Judith Landing, Great Falls, or Billings, and later to Lewistown where it was then consigned or sold to representatives of eastern firms. The total cost involved, including freighting, insurance and commissions averaged around four and one-half and five cents per pound." (*Ibid.*, p. 5.).

business of the region, holding supremacy from 1886 to about 1910 . . . ."<sup>1</sup> Within ten years of its introduction in eastern Fergus, sheep raising in the county involved 187,962 sheep. Three years later (1890), the county grazed 302,746 sheep.<sup>2</sup> In 1902, the county's sheep industry attained its peak; that year 719, 768 sheep grazed on its grasslands.<sup>3</sup> During the same years, Fergus assumed first rank in Montana's production of wool. Since the greatest concentration of the county sheep industry remained in eastern Fergus, the role of that area in particular gained greater prominence within the industry. In 1903 the railroad extension was completed to Lewistown. From that time, wool shipments from eastern Fergus increased. The Fergus County Democrat later reported that about 3,300,000 pounds of wool had been shipped at Lewistown in 1904 alone.<sup>4</sup>

Sheep continued as an important aspect of the eastern Fergus economic life for many years. As late as 1910, the county registered 424,144 sheep; their value, \$2,013,742, surpassed that of all other domestic animals of the county.<sup>5</sup> Although the number of sheep had diminished to 62,883 by

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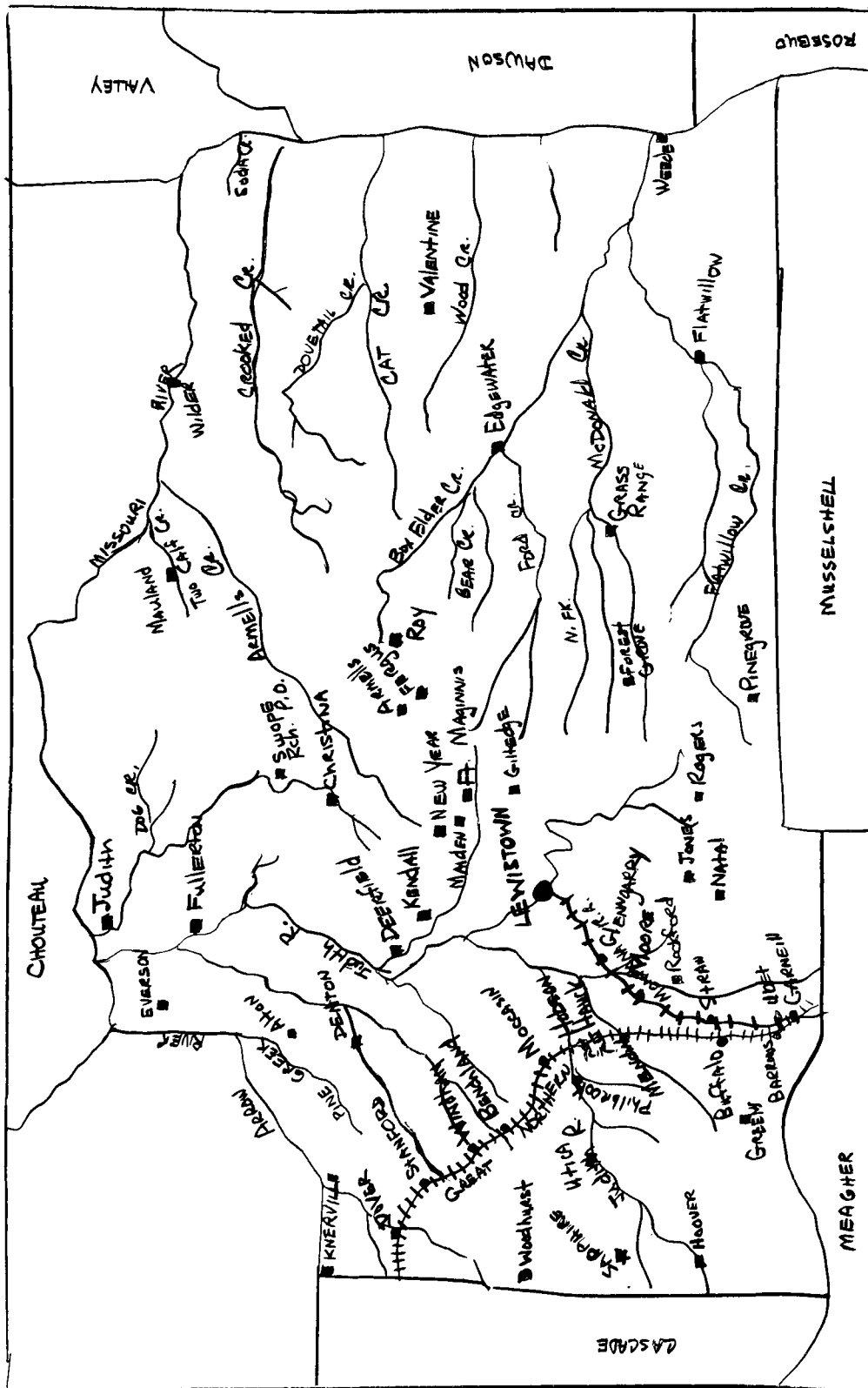
<sup>1</sup>Zellick, Ch. IV, p. 1.

<sup>2</sup>Zellick, Ch. VII, p. 4.

<sup>3</sup>Eighth Report of the Bureau of Agriculture, Labor and Industry of Montana (Helena: Independent Publishing Co., 1902), p. 565. Cited hereafter as Eighth Report . . ., 1902.

<sup>4</sup>Fergus County Democrat, April 25, 1905.

<sup>5</sup>Thirteenth Report of the Bureau of Agriculture, Labor and Industry of the State of Montana for the Years 1911 and 1912, (Helena: Independent Publishing Co., March, 1913), p. 244. Cited hereafter as Thirteenth Report . . ., 1911 and 1912.



a THIRTIETH REPORT OF THE BUREAU OF AGRICULTURE, LABOR AND INDUSTRY OF THE STATE OF MONTANA FOR THE YEARS 1911 AND 1912, CHELENA; INDEPENDENT PUBLISHING COMPANY, NAACH, 1913, P. 240.

MAP 5.-- Fergus County in 1911.

1922, their value in combination with other livestock was still an impressive \$4,546,000.<sup>1</sup> The sheep industry had achieved very imposing proportions in Fergus County. From its "humble beginnings" in eastern Fergus, the industry attained first rank in Montana's wool production and contributed to Montana's statewide growth as well. Even more significant for eastern Fergus, the sheep industry gave impetus to the economic development of the entire area.

Coincident with the earliest development of the sheep industry in Fergus County, the inauguration of the cattle industry took place. In 1877, when the first sheep were trailed into eastern Fergus, the cattle industry reached the area as well. The first cattleman, Frank Chamberlain, established a cattle ranch on McDonald Creek near presentday Grass Range. Although its earliest census notation was that of 1910, Grass Range developed concurrently with Flatwillow and was designated a post office in 1878.<sup>2</sup>

The development of the cattle industry encouraged settlement of Grass Range at least five years earlier than Winnett to the east, its competitor for county seat honors in later years. By 1910 Grass Range town attracted at least 140 citizens, growing to 262 in 1920, and tapering off slightly to 212 in 1930.<sup>3</sup> Winnett, later to become county seat of Petroleum County, was founded in August, 1883, by Walter J. Winnett who,

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<sup>1</sup>Montana, Department of Agriculture, Labor and Industry, Montana, Industrial Resource Edition (Helena and Missoula: The Missoulian Publishing Co., 1923), p. 88. Cited hereafter as Montana, Industrial Resource..., 1923.

<sup>2</sup>Silloway, p. 40.

<sup>3</sup>U.S. Census . . . : 1910, II, p. 1140; and U.S. Census . . . : 1930, I, 642-43.

like Frank Chamberlain, came in search of an area for cattle development. Winnett, too, suffered a languid growth; as late as 1910 the town failed to appear on the census records. The Winnett Times later described the city's delayed settlement in the following manner:

For many years he (Walter J. Winnett) enjoyed the freedom of this region, as settlers were few and neighbors far between. It was not until the year of 1910 that the attention of the public was drawn to this section or settlement was sufficient to maintain a government post office. A post office was established here in the year and was given the name of Winnett.<sup>1</sup>

The lure of land suitable for cattle ranching brought still others to eastern Fergus in the late nineteenth century. Forest Grove, for example, sprang up east of Lewistown in the late eighties when J. E. Frye and several other cattle ranching families settled on Sure Enough Creek in the Forest Grove vicinity. At least twenty-three ranches had been established in the region by 1900.<sup>2</sup> The 1910 census reported 289 persons in the Forest Grove territory and a perceptible gain brought the 1930 total to over 300.<sup>3</sup> Armells in 1880, Fergus in 1882, and Roy in 1892 also came into being as a result of the expansion of the cattle industry. Armells had a post office prior to 1890, but evidently experienced slight population growth; the 1910 census had not yet acknowledged its existence. The 1930 census, however, records 32 inhabitants at Armells.<sup>4</sup> Fergus, too, had negligible growth in its first years, but

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<sup>1</sup>The Winnett Times, Historical Edition, November 4, 1921.

<sup>2</sup>Silloway, pp. 39-40.

<sup>3</sup>U.S. Census . . . : 1910, II, P. 1140; and U.S. Census . . . : 1930, I, 643.

<sup>4</sup>Ibid.

contained 216 inhabitants by 1930.<sup>1</sup> Roy, on the contrary, boomed earlier and greater than its nearest neighbor. Roy's settlement commenced in 1893 when a post office was opened on a cattle ranch owned by Walter H. Peck.<sup>2</sup> In 1913, the extension of the Milwaukee into the area facilitated a movement of the post office seven miles to the present site of Roy. This railroad extension also augmented settlement. Thus, by 1930, the Roy area--benefitting first from the cattle industry, and later the grain industry, the railroad and the nearby oil strike--incorporated a population of some 1059, a sizable number for that region.<sup>3</sup>

The cattlemen responsible for settling those early eastern Fergus towns were, for the most part, small operators. Like Frank Chamberlain, most who came before 1880 had become intrigued by the high market price of cattle and by the corresponding low cost of production.<sup>4</sup> Both the small operator and the later, more characteristic corporations, found cattle raising on an open range an uncomplicated and profitable venture. In the two years 1880 to 1882 the market price rose from \$4-\$5 per hundred pounds to a high of \$5.90 to \$6.90 per hundred. Even at a purchase price of \$10 to \$22.50 a head, plus labor and shipping prices,

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<sup>1</sup>U.S. Census . . . : 1910, II, p. 1140; and U.S. Census . . . : 1930, I, 643.

<sup>2</sup>Silloway, p. 43.

<sup>3</sup>U.S. Census . . . : 1930, I, 642.

<sup>4</sup>In contrast to the sheep industry, which took little cash to engage in, cattle raising required a heavier investment. Consequently, partnerships or stock corporations were commonly formed to obtain the initial investment. The potential profit, however, convinced investors that the business could be lucrative.



a cattleman might realize as much as \$39.00 profit per steer.<sup>1</sup>

The prospect of such a lucrative enterprise expedited a rapid growth of the cattle industry throughout Fergus County. Although figures to illustrate the total expansion which occurred in eastern Fergus are indefinite, individual figures will serve to indicate growth. In eastern Fergus, for example, the Musselshell Stockmen's Association governed the largest roundups in the county, the Musselshell and the Flatwillow roundups. Their roundups of 1884 illustrate the acceleration which the cattle industry had undergone since its inception less than ten years previously. According to available information, the roundup of that year employed nine bands of horses with eithteen horses comprising each band. Total roundup expenses amounted to \$5,700 and during the roundup \$5,000 worth of mavericks alone were sold.<sup>2</sup> One year later, the Flatwillow Roundup in eastern Fergus gathered 46,800 cattle.<sup>3</sup>

Problems of cattle rustling and overstocking of ranges became prevalent during the early boom years. Virtually no range planning or consideration of grazing capacity had been given. The much-publicized disastrous winter of 1886-87 emphasized the futility of the open

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<sup>1</sup>Zellick, Ch. II, p. 6.

<sup>2</sup>Ibid., p. 8.

<sup>3</sup>Ibid., pp. 2-5. The following figures provide a conception of the size of some outfits in the roundup. The Pioneer Cattle Company of 1885 had been incorporated with a capital of \$1,000,000. After it became the Stuart, Kohrs Company, its holdings expanded from two thousand to twelve thousand to 21,000 cattle. Another large outfit, the Ryan Company on the Musselshell River trailed 32,000 cattle in 1883.

range system and the advantages of fewer but higher quality cattle.<sup>1</sup> And in Fergus County, the coming of the homesteaders also accentuated the other problems of the early cattle industry. As a result, the number of cattle in the county declined after 1900 but the industry retained its importance. Quality and fenced ranges replaced the former quantity of the earlier open-range industry. Moreover, the market price of beef subsequent to this transition increased relative to the decrease in numbers. Consequently, the cattle industry in eastern Fergus and elsewhere remained prosperous. In October, 1913, beef sold for \$5.70 per hundred pound, increasing to \$7.80 in 1916 and again to a peak of \$15.00 in 1917.<sup>2</sup>

A near disaster occurred in the cattle industry all over Montana between 1919-20 which had proved so disastrous to farmers was equally so for cattlement. A 1926 report of the Montana Department of Agriculture, Labor and Industry estimated that no less than a year's turnoff of hay and feed resulted from the dry season.<sup>3</sup> Falling market prices aggravated conditions by dropping as low as \$5.40 in October, 1921.<sup>4</sup> The unfort-

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<sup>1</sup>In eastern Fergus, the Pioneer Cattle Company folded up, while many others went into bankruptcy. The D-H-S spread lost all but 240 of a 21,500 head herd. Another outfit, the Ryan Brothers saved only 700 out of 4,800. (Zellick, Ch. III, p. 16).

<sup>2</sup>U.S. Department of Agriculture, in cooperation with Montana State Department of Agriculture, Montana Farm Review, IV, prepared by Jay G. Diamond, (Helena, 1925), p. 40. Cited hereafter as Montana Farm Review, IV.

<sup>3</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana, I, No. 4, Biennial Report of the Department of Agriculture, Labor and Industry (Great Falls: The Tribune Printing Co., December, 1926), p. 5. Cited hereafter as Montana, I, No. 4.

<sup>4</sup>Ibid.

unate ramifications appeared almost immediately.

From August 1920 to December 1925, the price of beef on the range had fallen from nine and one-half cents to six cents. Cattlemen became discouraged. Liquidation pressure forced by creditors increased. Marketings jumped from 147,413, the low point in 1921, to 246,000 in 1922, and 342,687 in 1923. Whole herds were turned over. In many cases cattlemen remained on their places only as custodians.

The end of the period 1920 to 1925 found December range prices at five and five-tenth cents and the cattle industry still cancelling its indebtedness largely through the channel of surrender of equity.<sup>1</sup>

Fergus County livestock ranchers shared the losses during this period. By 1925, however, a recovery of the industry was experienced and the numbers increased. The 1925 figures of the Department of Agriculture, Labor and Industry affirmed the recovery, reporting that Fergus County stood second among the counties in the number of beef cattle under two years old. Total cattle in the county at the time numbered 49,790, of which 14,279 were beef cattle under one year and 5,576 were beef under two years. Only Beaverhead County exceeded this number.<sup>2</sup>

Thus, the cattle industry recouped its losses after 1925. And the cattlemen of eastern Fergus were justifiably encouraged by the recuperation of the industry which continued beyond 1930 as one of Petroleum County's three major industries. As reported in the 1928 Montana Resources and Opportunities Edition, "farming, stock raising and oil" constituted the three major industries of the area formerly eastern Fergus.<sup>3</sup> The value

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<sup>1</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana, I, No. 4, Biennial Report of the Department of Agriculture, Labor and Industry (Great Falls: The Tribune Printing Co., December, 1926), p. 5. Cited hereafter as Montana, I, No. 4.

<sup>2</sup>Montana Resources . . ., 1926, p. 116.

<sup>3</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana Resources and Opportunities Edition, III, No. 2 (Helena and Great Falls: Allied Printing, 1928), p. 265. Cited hereafter as Montana Resources . . ., 1928.

of livestock products marketed in 1927 had been exceeded only by the value of oil produced in the same period. Livestock products marketed contributed a total of \$614,300 to the economy of the new county, thereby upholding the position of the cattle industry as an economic asset.<sup>1</sup>

In a discussion of economic development in eastern Fergus, it seems pertinent to note the obvious fact that both the sheep and cattle industries developed before the railroads penetrated the area. The development of the county as an agricultural territory, however, demanded more adequate transportation. A railroad was imperative. The influence of the railroad upon central Montana's settlement has been mentioned in the previous chapter. As noted, the railroad pierced central Montana and Fergus County in 1903 when the "Jawbone" or Montana Railroad reached Lewistown. The entrance of the railroad engendered almost immediate repercussions--population increased and subsequently encouraged expansion of the wheat industry in Fergus. Lewistown, alone, nearly tripled in population in less than ten years; "with the coming of the railroads after 1903 and with the introduction of wheat-raising after 1904 its population increased to almost 3,000 by 1910."<sup>2</sup>

In less than ten years following the railroad's penetration of Fergus County, the population had increased by 10,448.<sup>3</sup> The population

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<sup>1</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana Resources and Opportunities Edition, III, No. 2 (Helena and Great Falls: Allied Printing, 1928), p. 265 and 268. Cited hereafter as Montana Resources . . . , 1928.

<sup>2</sup>Zellick, Ch. II, p. 4.

<sup>3</sup>U.S. Census . . . : 1910, II, 1140.

trend, then, experienced a conspicuous acceleration after 1900. Consequently, a 1900 population of 6,937 gained 150 per cent in the next decade when inhabitants numbered 17,385.<sup>1</sup> The decade 1910-20 witnessed the penetration of the railroad throughout all parts of the county; a further increase in population resulted, bringing the total population of Fergus to 28,344--and this in spite of the loss of area to form parts of four counties in the interim.<sup>2</sup>

Eastern Fergus, unlike the western area around Lewistown, was the last to receive a railroad connection. Winnet did not, in fact, receive a major railroad connection until 1917. That long-awaited event provoked great excitement from the populace of the whole area. The Winnett Times predicted the impact that the railroad would have.

At exactly 9:30 a.m., Wednesday, October 10, 1917, the Chicago, Milwaukee and St. Paul railroad entered the township of Winnett.

The growth and development of our town and county for the past three years has been wonderful. We have waited patiently and now our dreams are realized. A new era dawns. Our town will take on new life while the farmer who will have a home market will redouble his energies in the cultivation of the soil and in stock raising.<sup>3</sup>

Within three years of this event, Winnett, which had not been listed in the 1910 census, was credited with 746 persons.<sup>4</sup>

In eastern Fergus, as elsewhere, the populace believed that without a railroad, both population and economic growth would be retarded; whereas with a railroad advancement might be realized immediately. The immed-

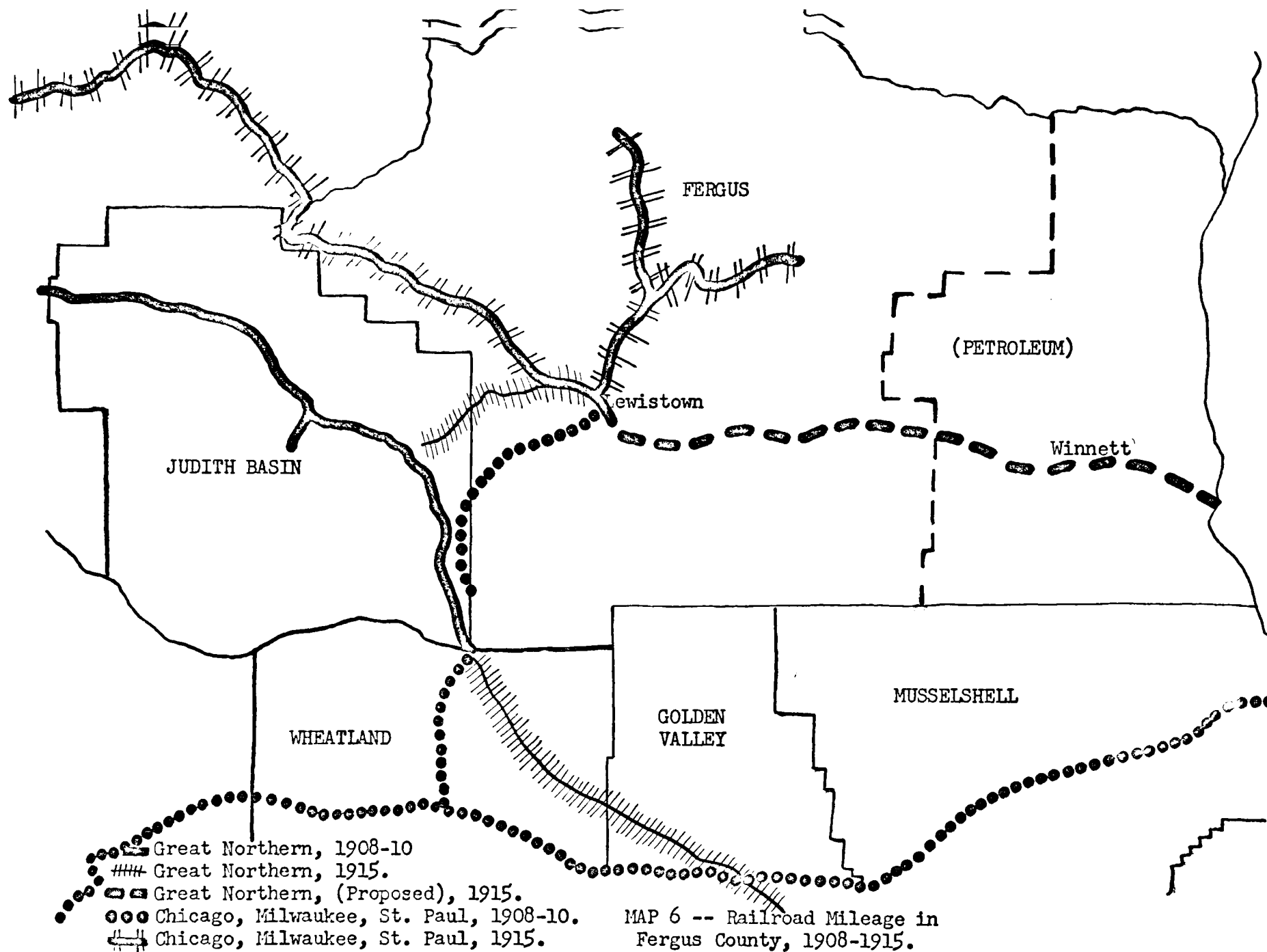
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<sup>1</sup>U.S. Census . . . : 1910, II, 1140.

<sup>2</sup>U.S. Census . . . : 1920, I, 502.

<sup>3</sup>The Winnett Times, Historical Edition, November 4, 1921.

<sup>4</sup>U.S. Census . . . : 1920, I, 502.



iate population gains seemed, at least in part, to support their contentions. The authors of a history of Central Montana confirm the result:

The railroad encouraged homesteading on the benchlands in the Judith Basin and the consequent expansion of wheat farming. This in turn led to branch lines to serve these areas. In 1907-1908 the Billings and Northern Railroad constructed its lines from Billings to Great Falls, tapping the Judith Basin country. This extension proved to be such a success that it was followed in 1912-1913 by a branch line from Moccasin to Lewistown to Roy and Winifred, and one east to Winnett and completed the line from Lewistown to Great Falls.<sup>1</sup>

The Bureau of Agriculture, Labor and Industry illustrates the dynamic force engendered by the railroad in transforming the region into an agriculturally productive land. Written in 1912, the statement affirmed that

in the last five years agriculture, from being comparatively unimportant, has grown to be the leading industry. The development, which is still in its early stages, dates from the arrival of railroads in the basin. The vast territory of fertile farm lands, having the soil. These came when the railroads came and transformation . . . from a stock growing to a farming country that has taken place has probably been more rapid than has ever occurred in any other part of the United States.<sup>2</sup>

As a result, whereas only one ranch has existed in Fergus' Musselshell valley in 1906, by 1926 the entire valley for 100 miles east of Harlowton was under irrigation.<sup>3</sup> Wheat, alfalfa, and oats were planted on every benchland.

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<sup>1</sup>Clifton B. Worthen and Oscar O. Mueller, "Central Montana," History of Montana, ed. Merrill G. Burlingame and K. Ross Toole (New York: Lewis Historical Publishing Co., Inc., 1957) II, Chapter XXII, p. 155.

<sup>2</sup>Thirteenth Report . . . 1911 and 1912, p. 239.

<sup>3</sup>Montana Resources . . ., 1926, p. 186.

Railroads in Fergus, as elsewhere, thus permitted and encouraged agricultural growth, particularly dryland wheat farming. But improved automobiles and roads also contributed to the acceleration of the agricultural growth. As Miss Zellick professed, "autos, introduced around 1904, helped extend this promotion started by the railroads."<sup>1</sup> Real estate representatives frequently met trains and took prospective wheat farmers to agricultural lands by automobile. The Fergus County Democrat reported in 1910 that every available automobile in Lewistown was utilized for ". . . whisking hundreds of prospective homeseekers" around the county.<sup>2</sup>

Automobiles required roads. Although slow to begin road construction, Fergus County claimed (in 1905) that it possessed greater road mileage than any other county.<sup>3</sup> Of the 5,500 miles extant in 1919, over five thousand had been constructed in the previous fifteen years. Understandably, many could not be classified as first class roads. Six hundred miles, in fact, had been only temporarily surfaced, since a well-built road cost no less than \$200 to \$250 per mile at the time.<sup>4</sup>

Eastern Fergus particularly suffered from lack of adequate roads. H. C. Tilzey, the County Surveyor, stated the extent of the road problem in the eastern sections. "Eastern Montana," alleged the surveyor,

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<sup>1</sup>Zellick, Ch. VI, p. 5.

<sup>2</sup>Fergus County Democrat, March 22, 1910, cited by Zellick, Ch. VI, p. 5.

<sup>3</sup>Judith Basin Farmer, December 4, 1919.

<sup>4</sup>Ibid.



has had a bigger problem than the western portion of the state..... In the eastern part of the state, and especially in Fergus County, where the roads are laid out on nearly every sectionline, we are forced to cross the drainage, which sometimes necessitates heavy construction work to get any kind of grades. The western counties are more fortunate because of the earlier settlement, and consequently have acquired very few miles of new road and few changes in the past fifteen years.<sup>1</sup>

Still, even with its problems, Fergus County--or at least some sections--could claim that ". . . Fergus county can boast of as good roads as any other county in the state. . . ." <sup>2</sup> Such road improvements, together with the significant increase in railroad mileage further contributed to the economic expansion and acceleration. First the agricultural economy and later the initiation of the oil industry in eastern Fergus would be significantly affected by the advancements made in transportation.

The previously described influx of dryland wheat farmers to initiate wheat growing in Fergus County was irrefutably abetted by the railroad. High wheat prices, supplemented by the enticing lure of public land which passed into private ownership between 1908 and 1917, have also been suggested as being of ultimate influence in the inauguration of the wheat industry.

In Fergus County, that inauguration took place only shortly after it originated in Bozeman's Gallatin Valley. Formerly the home of sheepmen and cattlemen, the rich soils of Fergus' Judith Basin alerted the dryland farmer to the crop potentialities of the region. With a little investment and an equally small land allotment, a wheat farmer could realize sizable profits because the market prices gained steadily. As the author of an early Fergus history noted,

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<sup>1</sup>Judith Basin Farmer, December 4, 1919.

<sup>2</sup>Ibid.

Fergus, which had been exclusively a cattleman's and sheepman's paradise, became the scene of wheat raising when the homesteaders saw its possibilities for dryland farming. The assumption that fertile soil would assure a quick crop and a large cash income on units as small as 160 acres, encouraged homesteading. Cattle and sheep involved large capital investment and retarded initial returns, but wheat was a "democrat," a crop for the poor man, a quick cash-crop.<sup>1</sup>

Although the first homesteaders settled the stream and bottom lands, that land soon became scarce, leaving only the unwatered benchlands. Farming on these areas in Fergus required the adoption of the recently devised dryland farming methods. Since this method could be utilized only if the area received an annual rainfall of at least eighteen inches, farmers in semi-arid Fergus County adopted it for wheat raising.<sup>2</sup> At the time dryland methods were adopted, (1904) Fergus received adequate moisture to ensure success. As late as 1911-1912, Lewistown, for example, reported an annual precipitation of 19.29 inches, of which 10.72 inches fell during the <sup>a</sup>drowing season.<sup>3</sup> Two years later, the county averaged even greater precipitation, 22.50 inches.<sup>4</sup> East of Lewistown, however,

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<sup>1</sup>Zellick, Ch. II, p. 7.

<sup>2</sup>Dry-land farming, put simply, is crop raising without irrigation. Semi-arid regions with a minimum of eighteen inches of rainfall can be quite productive. The land would be plowed and tilled. When first initiated, the method called for deep plowing and pulverization of the soil, after which the soil would be packed; the theory was that such activity would activate and preserve the moisture in the top soil and prevent evaporation. It was later determined, however, that such conceptions were erroneous, that in fact, deep plowing enhanced top-soil erosion. Shallow plowing from four to six inches has been demonstrated to be more effective.

<sup>3</sup>Thirteenth Report . . . 1911 and 1912, p. 241.

<sup>4</sup>Montana, Department of Agriculture and Publicity, Resources and Opportunities of Montana (Helena: Independent Publishing Co., 1916), p. 99. Cited hereafter as Resources and . . ., 1916.

the annual precipitation deviations were greater, frequently falling far short of the necessary minimum. Valentine, for example, ranged from a high of 12.57 inches of rain to 7.67 inches.<sup>1</sup> Therefore, utilization of dryland farming methods in eastern Fergus could prove hazardous.

For obvious reasons, then, eastern Fergus never developed the extensive dryland wheat industry characteristic of the western segment of the county. Although the eastern territory contained benchlands and possessed short, hot growing seasons, there was simply too little precipitation. Irrigation in the area was a must for production.

The county as a whole, however, prospered in the wheat era. From 2,310 farms in 1910, the number increased to 4,226 ten years later--and this in a county of smaller area than in 1910.<sup>2</sup> Most of these farms consisted of the small 160 acre units but maintained high yields of thirty to thirty-four bushels per acre in Fergus.<sup>3</sup>

Throughout the era 1910 to 1930, Fergus retained its wheat-producing importance. Even the severe drought years inflicted little permanent damage to its unchallenged position. The number of farms in the county did decline sharply--from 4,226 in 1920 to less than two thousand (1,918) only five years later.<sup>4</sup> And at the time, the newspapers reported the tragic effects of the drought in nearly every issue. A typical issue in 1919 bemoaned the conditions in the following manner:

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<sup>1</sup>Zellick, Ch. VI, p. 1.

<sup>2</sup>Montana Resources . . ., 1926, pp. 115, 54.

<sup>3</sup>Thirteenth Report . . . 1911 and 1912, p. 241.

<sup>4</sup>Montana Resources . . ., 1926, p. 115.

The worst of three bad crops leaves several hundred farmers of Fergus county in a most unfortunate condition . . . . Many of our farmers have completely exhausted their resources including credit. They not only have no seed for planting another crop but they have no money with which to purchase seed. Even more distasteful is the fact that a considerable number of them will lack the actual necessities of existence unless work is provided whereby they can grubstake themselves.<sup>1</sup>

Although the dryland wheat industry had been more nearly confined to western Fergus, the eastern section suffered during the drought years also. This area, which received even less rainfall than the western sections, had turned to diversified types of agriculture to supplement its wheat yield even prior to the drought years. The pattern was accentuated when the drought, which hurt the already dry eastern region, discouraged the wheat enthusiasts for a time. In 1914, the wheat farmers had produced as high as twenty-four to thirty-seven bushels per acre.<sup>2</sup> But by 1919 spirits dampened and reports from Winnett proclaimed with honesty that "the prospect this year for a crop of wheat is not very promising."<sup>3</sup> According to the same report, some farmers had failed to get any crop worth harvesting. Others, by "luck and care," had yields of 12½ to 18 bushels per acre at best.<sup>4</sup> Two years later, a return of some precipitation enabled a few farmers in the Welter, Flatwillow and Valentine areas to harvest some grain crops of 25 bushels per acre; but, according to the local paper, the grasshoppers had been severe and many communities had lost nearly everything.<sup>5</sup>

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<sup>1</sup>Fergus County Democrat, July 17, 1919.

<sup>2</sup>The Winnett Times, Historical Edition, November 4, 1921.

<sup>3</sup>Judith Basin Farmer, July 24, 1919.      <sup>4</sup>Ibid.

<sup>5</sup>The Winnett Times, August 26, 1921.

Similar unfortunate experiences curbed the dryland wheat raising tendencies of numerous eastern Fergus farmers. As if trying to provoke discontinuance of the wheat-raising industry in the region, the Winnett Times exclaimed in 1921, "There is now a prevailing opinion among the farmers that this is an ideal corn, hog and dairy country and that it is well to let someone else raise the small grain."<sup>1</sup>

Farmers continued to raise wheat,<sup>2</sup> but with the convictions that irrigation, rather than dryland methods, must be employed. The drought years had demonstrated conclusively that although dryland techniques could succeed under normal conditions of precipitation, they failed in periods of low moisture. To be fruitful during dry years, land needed irrigation. With this fact in mind, farmers began to experiment with other crops as well. Corn was among the first successful crops to be harvested.

Evidently the first suggestions that corn could be raised evinced expressions of incredulity. Two years' production of the crop had convinced most farmers of corn's potential, however. The Fergus County Democrat by 1919 declared that

. . . corn growing, especially in the vicinity of Winnet and the whole section of the county reaching to the Missouri river on the north, is no longer experimental. Corn can (be) and is being grown on an increasing scale and is of regular corn belt quality.<sup>3</sup>

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<sup>1</sup>The Winnett Times, August 26, 1921.

<sup>2</sup>In 1927, wheat still constituted the major crop, but it was wheat raised on irrigated land. In 1928, wheat accounted for \$181,390 of a crop value of \$187,890 in Petroleum county. 11,000 acres of spring wheat had been planted and yielded an average of 17 bushels per acre. (Montana Resources . . ., 1928, p. 268).

<sup>3</sup>Fergus County Democrat, January 16, 1919.

The success of such early efforts encouraged the corn raisers and alerted them to the value which might accrue to the section. As the newspaper affirmed, "With the established fact that corn can be grown profitably in that part of Fergus county and the full development of the irrigation projects in the Winnett and Flatwillow sections, Eastern Fergus is destined to become speedily one of the greatest wealth-producing portions of our county . . . ."1

Indeed, corn did become a premium crop of the region as the following figures illustrate. The crop itself had been introduced into the state simultaneous to its introduction to eastern Fergus. On the state level, as well as in Fergus, acreage devoted to the crop increased rapidly as evidenced by a yield of 2,226,000 bushels in 1920 which increased to 9,490,000 bushels by 1923.<sup>2</sup> And in eastern Fergus, corn acreage mounted as conversion to diversified farming continued. Hence, the Winnett Times reported that although the grain crop of 1921 had yielded only half as much as the previous year, "there is an excellent crop of sweet clover, alfalfa and corn."<sup>3</sup> Likewise, the Department of Agriculture, Labor and Industry reported that in the eastern part of Fergus "corn is a prominent crop" and exhibiting even greater potential.<sup>4</sup>

Success in raising corn and other crops continued as irrigation came increasingly into use in the period subsequent to the drought years. One newspaper urged in 1919 that since diversification would be impossible

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<sup>1</sup>Fergus County Democrat, January 16, 1919.

<sup>2</sup>The Harlowton Times, January 15, 1925.

<sup>3</sup>The Winnett Times, August 26, 1921.

<sup>4</sup>Montana, Industrial Resource . . ., 1923, p.

without water "it is essential . . . that every foot of land that can be watered should be just as soon as possible. Diversification is the one sure road to agricultural prosperity . . . ."1 Within two years a trend was already in evidence in the area.

Six hundred thousand acres are under cultivation while 1,755,750 acres are potential farm land. Projects (irrigation) on Judith River, and Flatwillow and Box Elder creeks in Eastern Fergus are now under way, and a large project is in course of construction on Warm Springs. The Flatwillow will eventually irrigate 25,000 acres.<sup>2</sup>

Yet contrary to other sectors of the county, eastern Fergus engaged in limited irrigation even prior to the experience of the drought years. Indeed, many oldtimers had expressed skepticism about the long-range possibilities of the success of dryland farming during its experimental years of success. Dependence on rainfall, they maintained, was foolish; dry years had occurred before.<sup>3</sup> The drought only reinforced their beliefs and verified their convictions concerning the need for some type of irrigation. And the newspaper supported their contentions with the disclosure that "this year the (crop) failure is very nearly universal except for the relatively small irrigated acreage."<sup>4</sup>

Included among the oldtimers who never denied the value of irrigation was Walter J. Winnett, founder of Winnett town in eastern Fergus. According to several newspapers, Mr. Winnett practiced irrigation from

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<sup>1</sup>Judith Basin Farmer, December 18, 1919.

<sup>2</sup>"Fergus, Flathead and Gallatin Counties," Montana, Its Story and Biography: A History of Aboriginal and Territorial and Three Decades of Statehood, ed. Tom Stout, (New York and Chicago: The American Historical Society, 1921), I, 716.

<sup>3</sup>Judith Basin Farmer, December 18, 1919.

<sup>4</sup>Ibid.

the day of his arrival on McDonald Creek. As early as 1885 he had constructed his first irrigation ditch.<sup>1</sup> Recognizing the potentialities for successful irrigation of Buffalo creek valley, Winnett in 1910 obtained the services of an official of the United States Land Office in Lewistown. With the advice of Mr. Abraham Joageland, Winnett then organized the Winnett Irrigation Company. That project, which was commenced during the peak of the dryland enthusiasm, was intended to irrigate eleven thousand acres in the Buffalo and Box Elder Creek valleys. Ultimately, the plan envisaged as much as 15,000 acres north and west to be irrigated by the Winnett complex.<sup>2</sup> Dams at the east and west ends of the War Horse Butte reservoir had impounding capacities of 27,000 acre feet of water and 6,000 acre feet, respectively. The former and larger thus held the equivalent of twelve inches of water if spread over 27,000 acres. The entire unit, completed in 1916, was reputed to be the "first considerable storage project to be built there," and by 1919 was still "the largest irrigation enterprise so far completed in the county."<sup>3</sup> Total expenditure of the project amounted to nearly \$150,000.<sup>4</sup>

The early Winnett irrigation complex was a remarkable achievement. Its importance stems from several factors relevant to its erection. In the first place, the planning and construction of the original Winnett project took place during the most prosperous years of the dryland farming era; in view of the general lack of faith in the necessity of

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<sup>1</sup>The Winnett Times, Historical Edition, November 4, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>Judith Basin Farmer, December 18, 1919.

<sup>4</sup>The Winnett Times, Historical Edition, November 4, 1921.



irrigation at such a time, the erection of this project marked a substantial and notable acknowledgement of the need for irrigation. In the second place, the Winnett project originated with an interested, private corporation to facilitate its construction. In the third instance, its construction in eastern Fergus as the first irrigation enterprise in the county proved to be significant both at the time of construction and later when the area converted to diversified agriculture. For during the drought years particularly, those irrigated sections illustrated conclusively the value of irrigation by continuing to produce. Finally, the \$150,000 expended by The Winnett Irrigation Corporation proved a significant factor as well. Government statisticians later indicated that similar government irrigation projects had averaged about \$55 per acre at that time. Therefore, on the basis of government expenditures for comparable construction, the Winnett complex "would have cost approximately \$550,000."<sup>1</sup>

Almost immediately the Winnett Irrigation Company Project effected the cultivation of over 2,000 acres of land in eastern Fergus. The first reports by farmers asserted that no less than 90 per cent of the irrigated acreage became tillable.<sup>2</sup> According to the Winnett Times, efforts were already being exerted to transform the newly irrigated lands to diversified farming. "While small grains will probably be sown as the first crops," proclaimed the paper, "eventually the lands will undoubtedly be devoted to alfalfa and sugar beets and mixed farming."<sup>3</sup>

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<sup>1</sup>The Winnett Times, Historical Edition, November 4, 1921.

<sup>2</sup>Ibid.      <sup>3</sup>Ibid.

Such optimistic reports following on the heels of a disastrous drought generated an immediate movement for irrigation throughout the county. The provisions of the Carey Land Act suddenly appealed to residents of Fergus who had previously rejected them. In order to meet the provisions<sup>1</sup> and enable reclamation and cultivation under the terms of the Carey Act, the Fergus County Land and Irrigation Company emerged.<sup>2</sup> In 1913 the company made arrangements to have the lands in eastern Fergus between Flatwillow creek and Elk Creek irrigated. The Flatwillow Project, as it was called, utilized the many streams of Flatwillow creek; its snow-fed headwaters, according to the engineers, dissipated an annual run-off of over 40,000 acre feet of unappropriated water. To harness these otherwise wasted waters of Flatwillow into a natural 1,400

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<sup>1</sup>In 1894, the Federal Carey Act passed. It provided states with land grants if such land would be utilized for reclamation, settlement and cultivation. The Montana legislatures of 1895 and 1897 attempted to meet the requirements of the federal law by creating the State Arid Land Grant Commission to carry them out. Early efforts were unsuccessful and the law was finally modified in 1905. The Carey Land Act Board replaced the Arid Land Grant Commission.

As the law existed after 1905, "persons or corporations who desire to reclaim lands of the public domain apply to the Carey Land Act Board, asking it to select the desired land under the Carey Act. If the State officials approve the desired land they apply to the United States requesting that the land in question be segregated from the homestead entry. After various requirements, including the reclamation of the land, are satisfactorily complied with, the State receives a patent to the land from the United States. The State in turn issues patents to individual settlers who establish residence on and cultivate the land and buy their water rights for their farms from the builders of the irrigation works." (Montana Resources . . ., 1926, p. 103).

<sup>2</sup>According to the Winnett Times (Historical Edition, November 4, 1921), Walter J. Winnett was probably the originator of this company, too. Other personnel were John Berkin and John MacGinnis of Butte and David Hilger of Lewistown. Again, Abraham Hoageland (Joageland) acted as the original engineer, although others, such as S. R. Robbins, were consulting engineers.

acre basin required construction of a 20 x 30 foot diversion canal. The project envisaged an eventual storage capacity of 20,000 acre feet of water--water to irrigate 8,000 acres in the immediate area and some 15,000 acres of additional private land.<sup>1</sup>

The effect of the Flatwillow project in enhancing the value of lands embraced by its operations should have convinced even the most vehement opponents to irrigation of its merit. Project engineers concurred that the worth of the acres included "will be increased tenfold by the use of one and one-half feet of water per acre."<sup>2</sup> Figures published seven years later by the Department of Agriculture, Labor and Industry confirmed the earlier value estimates. Irrigated land in Petroleum County (formerly eastern Fergus) sold in 1926 as high as \$100 per acre and no lower than \$35, depending upon the location. By comparison, non-irrigated tillable land brought \$15 to \$25 and grazing land from \$3 to \$5.<sup>3</sup> And as a final substantiation of the merit of such projects, the engineer of the Flatwillow project estimated that the total cost did not exceed \$15 per acre.<sup>4</sup>

Irrigation thus enhanced the agricultural potentialities of eastern Fergus during the early years of the twentieth century. Land whose development had been impeded by lack of water proved to be fruitful and

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<sup>1</sup>According to the Winnett Times (Historical Edition, November 4, 1921), Walter J. Winnett was probably the originator of this company, too. Other personnel were John Berkin and John MacGinnis of Butte and David Hilger of Lewistown. Again, Abraham Hoageland (Hoageland) acted as the original engineer, although others, such as S. R. Robbins, were consulting engineers.

<sup>2</sup>Ibid.      <sup>3</sup>Montana Resources . . ., 1926, p. 241.

<sup>4</sup>The Winnett Times, November 4, 1921.

valuable. Irrigation methods harnessed the once intermittent streams of the region and enabled their run-off to be utilized rather than dissipated. The drought had shown irrigation to be essential for agricultural solvency on the dry benchlands. And in eastern Fergus, rudimentary efforts in irrigation were made earlier than in any other area of the county. Such advances enabled the intrinsic agricultural value of the region to be at least partially realized. Full agricultural development appeared imminent.

Certain evidences of progress did appear as anticipated. Yet full productivity of every farm did not always result as quickly as hoped. The war and the depression which followed apparently retarded somewhat the full agricultural development of the area. Momentary expressions of dissatisfaction were quickly suppressed, however, by an economic development of another nature--the discovery of oil February 19, 1920 in eastern Fergus. The repercussions of that discovery understandably lessened the agricultural zeal almost immediately. Irrigation of farm lands, although continued, was at least temporarily relegated to a subsidiary concern. Oil fever dominated conversation and activity. The explosive impact of the Cat Creek strike interrupted farming endeavors. Consequently, those who only two years before had stated that ". . . agriculture has supplanted every other industry in importance" proclaimed within one month of the discovery that the future of the county lay in the oil industry.<sup>1</sup> Exemplary of the change of attitude is the following

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<sup>1</sup>Montana, Department of Agriculture and Publicity, Resources and Opportunities of Montana (Helena: Independent Publishing Co., 1918), p. 169. Cited hereafter as Resources . . ., 1918.

item from the Fergus County Argus which asserted that

time was when the proud resident of Lewistown explained the prosperity of the capital of the Inland Empire with the simple statement, 'It's the wheat.' Perhaps in another year swollen bank deposits in Lewistown may be explained by these words: 'It's the oil.' Certainly the petroleum possibilities of eastern Fergus county are promising, and it looks as though the Goddess of Fortune, while armed and alluring is beckoning. Lewistown talks and dreams oil in the night time and during the day goes down in her spacious pocket and puts up real cash for oil development.<sup>1</sup>

Meanwhile in the heart of the explosion, Winnett changed into a dynamic, thriving city. Its population virtually doubled overnight. Prices of food and lodging skyrocketed and accommodations became almost impossible to secure. A restaurant with a capacity for a dozen persons fed over 300 people the first day after the strike. Hotels particularly reflected the boom. Owners even prohibited occupants from spending more than eight hours in their beds; "eight hours constituted a sleeping portion . . . and the lodger who slept over that time was trespassing on the hours of repose of the other fellow . . . ."2

The price of real estate, of course, soared at once. In a typical case, one lot on main street purchased the day prior to the discovery for \$300 reportedly sold the day following the strike for \$600. A day later the same lot sold for \$900 and by the fourth day brought \$2,500.<sup>3</sup> In another instance, a Japanese porter bought a lot in Winnett before the strike for \$250 and a building for \$750. Following the oil discovery, the porter, Mr. Frank Mianto, refused an offer of \$10,000 for the same

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<sup>1</sup>Fergus County Argus, March 26, 1920.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.

property.<sup>1</sup> Many others who recognized possibilities for even greater profits refused to sell choice property in the city.<sup>2</sup>

As the locus of the drilling activity, Winnett achieved indisputable primacy in Fergus County during the early oil fever. Even Lewistown ascribed new importance to Winnett. As if needing to affirm a significance already obvious, the Argus proclaimed that "out of Lewistown, all roads in Fergus county lead to Winnett and the remarkable find that has been made in the Mosby oil well . . ."<sup>3</sup> Indeed, reflected the newspaper, "A few weeks ago Winnett was a little town which banked its faith in future dreaming of fields of waving yellow grain and perhaps a court house in the future."<sup>4</sup> Wishing to exhibit no vindictiveness, Lewistown papers continued to comment accurately and optimistically about Winnett's promising future. Noting the distinct increase in population, the Argus opined,

A few weeks ago Winnett was a little town which banked its future greatness on fighting out the question of a county seat with Grass Range, sometime in the days to come. Now it is an oil metropolis, small but sanguine, and growing larger daily. Today its prospects are somewhat on the knees of the kindly gods, but next week, when the voracious bit of an oil drill goes tearing further down into the

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<sup>1</sup>Fergus County Argus, March 26, 1920.

<sup>2</sup>Among the innumerable local speculators was one pioneer rancher, John O'Day. His property--640 acres--fordered the most valuable property in the district. Since Mr. O'Day's property was under lease, he was entitled to one-eighth of any oil developed. For only a half interest in the royalty rights to eight of the acres, O'Day was offered \$100,000, but refused to sell. The Fergus County Argus (Ibid.) reported the transactions and quoted Mr. O'Day's refusal in the following manner, "nothing doin', stranger . . . ." "I may be a hayseed but I'm no piker. I'll either be a John D. Rockefeller and ride around in one o' them glass authermobiles, or I'll keep on sloppin' the hogs."

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

bowels of the Lakota oil sands and the full productivity thereof is loosed, the name of the town may find favor in the money changing places of the world where there is a keenness and interest in new sections which produce beautiful green oil, heavily charged with gasoline and profit to the finder.<sup>1</sup>

The strike which engendered all the excitement throughout Fergus occurred in eastern Fergus on Cat Creek. Drills located the oil less than 100 feet from the Musselshell's west bank on the northeast quarter in section 21-15-30 east.<sup>2</sup> The Frantz corporation well produced the first oil, but other wells had been discovered. As early as July, 1919 the Fergus County Democrat took notice of the drillings and prophesied success before the end of the year.<sup>3</sup>

Eight days subsequent to the Mosby strike, geologists estimated that the quality of the oil discovered at Cat Creek contained a high gasoline content--perhaps as much as 49 per cent. Such a high content, speculated the Argus, would qualify the Frantz product as ". . . the most valuable and high grade oil ever yet discovered in a Montana field."<sup>4</sup> No reliable assessment could be placed immediately upon the quantity of the oil in the well, but the possibility of large quantities nurtured hopes

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<sup>1</sup>Among the innumerable local speculators was one pioneer rancher, John O'Day. His property--640 acres--bordered the most valuable property in the district. Since Mr. O'Day's property was under lease, he was entitled to one-eighth of any oil developed. For only a half interest in the royalty rights to eight of the acres, O'Day was offered \$100,000, but refused to sell. The Fergus County Argus (Ibid.) reported the transactions and quoted Mr. O'Day's refusal in the following manner, "Nothing doin', stranger . . . ." "I may be a hayseed but I'm no piker. I'll either be a John D. Rockefeller and ride around in one o' them glass authermobiles, or I'll keep on sloppin' the hogs."

<sup>2</sup>Fergus County Argus, February 27, 1920.

<sup>3</sup>Fergus County Democrat, July 17, 1919.

<sup>4</sup>Fergus County Argus, February 27, 1920.

and a multiplicity of new wells in Cat Creek.<sup>1</sup> Before the end of the year sixty rigs covered the field.

Early speculation that the Cat Creek strike would exceed previous Montana wells in quality and quantity proved accurate. During its first year of production, the field produced oil valued at \$734,181.<sup>2</sup> As production and drillings persisted, Cat Creek yielded even greater returns. By April 22, 1921, the local papers reported 2200-2600 barrels of oil being shipped daily.<sup>3</sup> In spite of intermittently lowered prices on oil during 1921, Cat Creek production remained ascendant.<sup>4</sup> By the close of the year, the field incorporated fifty-six producing wells whose total yield constituted 1,350,528.91 barrels for the year. No less astonishing was the one year upsurge in value of the oil produced. From

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<sup>1</sup>On March 26, 1920, the Argus published the following statement concerning the quality and quantity of the oil in the original well: "Here are the bald facts about the Mosby well, from which the reader may draw his own conclusions. On February 18 the bit cut into the oil bearing sands, a second Kootenai, at a depth of 1,015 feet. The oil is paraffin base, 47 degrees Baume gravity or about 50 per cent in gasoline content, and of high commercial value. The sand in which the oil occurs is 70 feet in thickness and further penetration should increase the flow. Seventy feet of the bore is caved in, and the well has been capped, but notwithstanding the obstruction and the capping, from 10 to 20 barrels of the rich fluid is forcing its way to the surface and flowing away from the well every 24 hours." (Fergus County Argus, March 26, 1920, p. 11).

<sup>2</sup>Don Douma, "Oil and Gas in Montana," History of Montana, ed. Merrill G. Burlingame and K. Ross Toole (New York: Lewis Historical Publishing Co., Inc., 1957) II, Chapter XVIII, p. 34. That same year the Frantz corporation sold its holdings (reputed to be about 28,000 acres (Fergus County Argus, March 26, 1920))

<sup>3</sup>The Winnett Times, April 22, 1921.

<sup>4</sup>For a time the market price fluctuated between \$1 and \$2 per barrel. The Winnett Times loudly declared a price of \$1.00 per barrel as intolerable since water sold for a like amount at the time. After two months, however, the paper reported the price had returned to an acceptable \$2.00 per barrel. (The Winnett Times, September 23, 1921).



the \$734,181 value of 1920, the production value multiplied to an impressive \$2,085,296.87.<sup>1</sup>

The aggregate output of the Cat Creek strike is impossible to assess with complete accuracy. Published figures of the oil production for the years following 1921 lack congruity in their appraisals. A 1923 Montana Industrial Resources publication, while calling oil "the county's most valuable mineral resource at present . . .," reported that Cat Creek contained 110 producing wells in 1922; this report cited a yield of "more than 2,000,000 barrels of high grade oil" that year.<sup>2</sup> A later report indicated that Cat Creek comprised only 97 producing wells in 1922 and yielded 2,201,917.04 barrels or a value of \$3,366,529.58 for 1922.<sup>3</sup> In spite of the lack of consistency revealed by the sources, both are conspicuous testimony to the rapid rise of the oil industry in eastern Fergus after 1920. By 1923, the Department of Agriculture, Labor and Industry had affirmed the position of the county's newest enterprise; in less than three years Fergus became the state's top oil producer.<sup>4</sup>

One may most clearly perceive the rapid development of the oil industry in Fergus by comparing its production with that of oil fields elsewhere. Montana in 1921 contained 400 incorporated oil companies. Of these, only 51 were drilling.<sup>5</sup> In contrast, Cat Creek alone incorporated over fifty producing wells the same year--wells which yielded an

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<sup>1</sup>Montana Resources . . ., 1926, p. 192.

<sup>2</sup>Montana, Industrial Resources . . ., 1923, p. 88.

<sup>3</sup>Montana Resources . . ., 1926, p. 192.

<sup>4</sup>Montana, Industrial Resources . . ., 1923, p. 87.

<sup>5</sup>Silloway, pp. 54-55.

average of 200,000 barrels of oil monthly. In effect, "Fergus County then had the only Montana wells operating on a commercial basis."<sup>1</sup> Despite the discovery of five additional fields of major importance, each failed to compete with the eastern Fergus sands during the years prior to 1925. The Cat Creek strike furnished a total of 8,396,930.54 barrels between 1921 and 1925. The value of that oil amounted to \$13,671,025.89, by far the greater portion of the statewide total--\$19,556,784.13.<sup>2</sup> Significantly, its closest competitor (the Kevin-Sunburst field) during the same five years yielded but 4,394,862.16 barrels or a total value of \$5,462,242.51.<sup>3</sup>

The above figures, although fragmentary, do illustrate the dynamic growth of the oil industry in eastern Fergus. In less than five years the county's "poor relative" had undergone an economic transformation which culminated in the establishment of a multi-million dollar industry. The eastern section, whose former contribution to the county's assessed valuation was reputed, at least by the county seat, to have been minimal became a potent and dominant economic voice. Such observable progress understandable provoked conspicuous optimism. It is little wonder, then, that the citizenry of eastern Fergus wrapped themselves in their enthusiasm. Why not when the newspapers nurtured hopes for continuing prosperity with articles such as the following: "The largest shipment of crude oil ever made from Winnett went out from here last Saturday, 46 cars, averaging 265 barrels, and all destined to refineries at Greybull, Wyoming,

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<sup>1</sup>Silloway, pp. 54-55.

<sup>2</sup>Montana Resources . . ., 1926, p. 192.

<sup>3</sup>Ibid.

being part of a special order for 38,000 barrels."<sup>1</sup>

If the visible fruits of production had failed to justify their enthusiasm, undoubtedly two additional events--the laying of a pipe line and the erection of a Winnett refinery--would have confirmed the prosperity. As early as September, 1921, a gigantic pipe line transmitted oil from the Cat Creek fields. Nineteen and one-half miles of a six-inch pipe and eleven miles of line in the field connected to move the mineral. The engines constructed for the pipelines could competently move 7500 barrels of oil in only twenty hours.<sup>2</sup> In recognition of the christening of the pipe line, the Winnett Times asserted that the occasion marked " . . . an eventful day in the history of Winnett" and professed a belief that "the present equipment is but a stepping stone to a larger and more extensive organization."<sup>3</sup>

Almost coinciding with this proclamation of extension came the erection of the first of three refineries in the area. Erected at Lewistown within a year of the first strike, the refinery testified to the advancing oil industry. When the third refinery was constructed, it was situated at Winnett on the very doorstep of the strike.

Refineries and pipelines implied accelerated growth. Newspapers related, reflected and accentuated progress. But even more conclusively,

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<sup>1</sup>The Winnett Times, December 16, 1921.

<sup>2</sup>The Winnett Times, September 23, 1921

<sup>3</sup>Among the suggested areas of probable expansion mentioned in the Times were (1) a 60-mile extension of the present pipe line, (2) a connection to the Slayton, Montana junction of the Milwaukee and the Great Northern, (3) "one of the most complete refineries at that point that science has yet devised . . .," and finally, over 200 distributing stations in cities throughout the mountain states. (Ibid.).

the production growth culminating in an imposing \$13,671,025.89 total value and the first rank among producers, indicated economic prosperity in eastern Fergus. A successful future in the oil industry appeared to be ensured.

At the time, newspapers overlooked one crucial implication revealed by the production figures: that is, taken year by year, the figures depicted not continued growth in production, but rather a gradual decline. Whereas the number of producing wells mounted annually, the actual yield diminished slightly. During the peak year of 1922, ninety-seven wells produced 2,201,917.04 barrels of oil valued at over \$3,360,000. Two years later, 179 wells yielded less than 1,530,000 barrels of oil or \$2,439,277.<sup>1</sup> Subsequently, the ratio between the number of wells and the yield grew even greater. In 1925, the Cat Creek area encompassed 186 wells, but its numerical yield had dropped to 1,234,456.28 barrels.

Perhaps the monthly production figures for the year November 1, 1925 depict more clearly the gradual decline in production of the Cat Creek field as it occurred. For example, in March, 1925, the peak production month for Cat Creek, 17,593 more barrels were produced than in June, 1925 and 39,047 more than in August of that year. In addition, the figures graphically illustrate the simultaneous upsurge experienced by fields elsewhere in Montana.

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<sup>1</sup>Montana Resources . . ., 1926, p. 192.

TABLE 3

MONTANA'S OIL PRODUCTION BY FIELDS AND MONTHS FOR THE YEAR  
NOVEMBER 1, 1924 to NOVEMBER 1, 1925<sup>1</sup>

Month	Cat Creek	Kevin-Sunburst	Lake Basin	Total
November, 1924	127,943	100,309	. . .	228,252
December, 1924	117,585	95,130	. . .	212,715
January, 1925	132,371	110,535	. . .	242,852
February, 1925	123,497	108,666	. . .	232,157
March, 1925	135,837	107,430	. . .	243,267
April, 1925	122,018	118,372	. . .	240,390
May, 1925	99,736	157,749	. . .	257,485
June, 1925	118,244	194,215	. . .	312,459
July, 1925	105,484	225,024	8,221	339,329
August, 1925	96,790	258,112	12,126	367,028
September, 1925	104,101	262,070	2,208	368,379
October, 1925	98,560	349,442	737	448,739
	1,382,106	2,087,054	23,892	3,493,052

As the table indicates, production and competition among Montana's oil fields increased incredibly within a few months' time. By 1925 the the Kevin-Sunburst field surpassed the production of the Cat Creek wells. Within three years of its discovery, the Kevin-Sunburst field witnessed

<sup>1</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana Resources and Opportunities Edition (Helena, 1926), p. 198.

such a spectacular growth that the number of its wells increased from 27 to 432. Its output in dollars climbed to \$3,944,258 for 1925; that of the wells in eastern Fergus dropped to \$2,419,135.<sup>1</sup>

In a 1921 history, the author predicted a bountiful future for the oil industry in eastern Fergus County. Mr. Tom Stout professed the view that the oil industry in Fergus County " . . . promises to exceed the total of all others in magnitude of its potential production."<sup>2</sup> Such a statement made subsequent to the magnitude of the wheat industry only a decade before indicated great prosperity, indeed.

The facts verified that the industry failed to live up to the expectations.<sup>3</sup> By 1932, the Board of Equalization figures indicated that Cat Creek production for the previous year had amounted to only \$407,314.<sup>4</sup>

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<sup>1</sup>Montana, Department of Agriculture, Labor and Industry, Division of Publicity, Montana Resources and Opportunities Edition (Helena, 1926), p. 198.

<sup>2</sup>Stout, I, p. 716.

<sup>3</sup>Nearly fifteen years later, however, a deeper drilling caused a revival in the field. Don Douma, in his chapter on "Oil and Gas in Montana" (A History of Montana, ed. Merrill G. Burlingame and K. Ross Toole (New York: Lewis Historical Publishing Co., Inc., 1957), II, Chapter XVIII, 43), mentions the later efforts as follows: "The satisfactory results of deeper drilling in the Basin (Elk) led to the testing of the lower horizons of the Cat Creek field; and upon completion of a well on the Mosby Dome in the latter part of 1945, Cat Creek became the second Montana field to experience a remarkable revival. A new oil boom started in central Montana as more wells were drilled into the Ellis sand, all producing from one hundred barrels of crude per day."

<sup>4</sup>Fifth Biennial Report of the Montana State Board of Equalization to the Governor and Members of the 23rd Legislative Assembly of the State of Montana for the Period July 1, 1930 to June 30, 1932 (Helena: Naegele Printing Co., 1932), p. 25. Cited hereafter as Fifth Report . . . Board of Equalization.

The fields did not dry up completely; as late as 1960-61, the field produced 224,097.11 barrels or \$570,931.88 worth of oil.<sup>1</sup> But the peak period for the industry had been a short five years.

One outgrowth of the industry did survive in importance for some time. The refineries installed at Lewistown and Winnett continued to operate as successful enterprises for several years. The Winnett refinery, as previously mentioned, shipped its first gasoline in November, 1921. Later when the oil production in Montana decreased, the Winnett and Lewistown refineries began to import some oil. Throughout the lean oil years, central Montana particularly imported oil in great quantities. As a result, the state's refineries increased their output more than 123.2 per cent as recently as 1939-1950.<sup>2</sup> A recent history testifies that the growth of oil refining has constituted an outstanding development in Montana industry. From a little more than 34 million gallons in 1930, production has risen to over 127 million gallons in 1939 and over 293 million in 1950.<sup>3</sup>

The implications of this conspicuous growth provoked a conclusion worthy of note: "Most of the oil produced in Montana is refined in the state but much of the oil refined in Montana is imported and hence Montana's oil refining industry has grown more rapidly than its petroleum industry."<sup>4</sup> In essence, then, what appeared to be an industry of some consequence gave rise to another which remains of some consequence today in the state and county.

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<sup>1</sup>Twentieth Biennial Report of the Montana State Board of Equalization to the Governor and Members of the 38th Legislative Assembly of the State of Montana for the Period July 1, 1960 to June 30, 1962 (Great Falls: Tribune Printing, 1962), p. 22. Cited hereafter as Twentieth Biennial . . . Board of Equalization . . . .

<sup>2</sup>Douma, Chapter XVIII, p. 43.

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

The economic picture of Fergus County presented in this chapter has emphasized the economic growth of the area east of presentday Lewistown. In reassessing the findings, the research reveals conspicuous, correlating trends between the population and economic growth. The earliest influx occurred in the late nineteenth century,<sup>1</sup> with the inauguration of the sheep and cattle industries. A second economic boom began about 1907; in this period, the Fergus economy shifted to agriculture--to wheat raising. The resultant soaring economy engendered the following statement:

In the past ten years agriculture has supplanted every other industry in importance. The famous Judith Basin, which comprises the western half of the county, is now known as one of the wheat producing sections of the world. Its 2,000,000 acres will all be yielding grain or hay crops within the next five or six years. Recent settlement of the eastern sections of the county has demonstrated its worth for grain crops of all kinds, and in the entry tributary to the Musselshell and Missouri rivers exceedingly fine crops of corn are grown.<sup>2</sup>

After the drought years which irrefutable substantiated the necessity for irrigation, eastern Fergus converted to the diversified agriculture still utilized. And, finally in 1920, still a fourth industry began in the county--the oil industry. As previously described, the boom brought an optimistic population, a population which thought "the latest industry . . ." promised "to exceed the total of all others in the magnitude of its potential production."<sup>3</sup>

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<sup>1</sup>Mining for gold created a movement in western Fergus which paralleled that of the sheep and cattle industries. Discovered in 1879 in a stream in the eastern Little Belts, gold drew a population which increased from 400 to over 1200 in one year. The findings did not meet expectations, however, and the Yogo camp was deserted by 1883. (Zellick, Chapter V, p. 1).

<sup>2</sup>Resources . . ., 1918, p. 169.

<sup>3</sup>Stout, I, Chapter XXIX, p. 716.



Today, the former eastern section of Fergus County is Petroleum County. The area now possesses a small labor force of 467. Agriculture employs 287 persons, mining 34, construction, 13, trade, 49, services and finance, 44, public administration, 19, and transportation, 14. In 1954, the county encompassed 142 farms and ranked fifty-third of the fifty-six counties in that respect. Sales from retail establishments yielded \$311,000, placing the county last in that category. In present-day Petroleum County, farm marketings (\$2,736,000 in 1956) of crops and livestock accounted for the largest segment of the economy.<sup>1</sup> Although no mention of oil appears in the Montana Almanac's report of the county's economy, the county today continues to produce a nominal amount of that product. The State Board of Equalization Reports reveal that in 1962 Petroleum County produced 176,610 barrels of oil worth a gross value of \$461,777.<sup>2</sup>

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<sup>1</sup>Montana Almanac, 1959-60, p. 405.

<sup>2</sup>Twenty-first Biennial Report of the Montana State Board of Equalization to the Governor and Members of the 39th Legislative Assembly of the State of Montana for the Period July 1, 1962 to June 30, 1964 (Great Falls: Tribune Printing, 1964), p. 34. Cited hereafter as Twenty-first Biennial . . . Board of Equalization . . . .

### CHAPTER III

#### CAMPAIGNS FOR A NEW COUNTY IN EASTERN FERGUS

Petroleum County, Montana's fifty-sixth, was officially organized February 22, 1925. Created entirely from land within Fergus County, Petroleum became the eighteenth county formed by petition and election of its residents since enactment of the Leighton Act in 1911. Its creation came only after six years of repeated attempts by those desirous of divorcing from the mother county. Indeed, four unsuccessful legislative attempts, two District Court cases, two Supreme Court cases and three petition and election campaigns spanned the years before the eventual success of the third petition and election campaign. Thus, on November 4, 1924, an affirmative vote of over 80 per cent of the residents of eastern Fergus created Petroleum County;<sup>1</sup> after the required waiting period of ninety days, the county acquired official status three months later.

As early as 1919 two legislative attempts to create a county from eastern Fergus were launched. Thus, legislators introduced two bills--one to create Cruse County<sup>2</sup> and the other to create McKinley County--

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<sup>1</sup>The Winnett Times, November 7, 1924.

<sup>2</sup>The name of the county derived from Thomas Cruse who had large land holdings on Flatwillow and McDonald Creek. The Argus stated that Cruse ran thousands of sheep in the area for years and contributed to its growth and development. (Fergus County Argus, February 4, 1921).

from the area of Fergus County. Both bills died on the House floor. Two years later, the Senate killed the second bill to create Cruse County. A second bill to create an eastern Fergus county called Edgerton died in the House Committee on New Counties and Divisions during the 1921 session.

After four successful legislative endeavors, the proponents of the new county resorted to the petition and election method. Having gained the state seventeen new counties, the petition and election method appeared more promising than did the slower legislative resolution attempts. Moreover, the newer method put the effort directly into the hands of those working for the division.

Almost immediately after the 1921 legislature failed to pass a resolution for a new county in eastern Fergus, the county advocates launched a campaign to create the county of Petroleum. On April 18, 1922, the campaign directors presented the first petition with the requisite signatures to the county commissioners. When the commissioners proclaimed the petition inadequate, the eastern Fergus residents filed a suit against them. The District Court, in April, 1923, upheld the Fergus County commissioners. Carrying the case to the Supreme Court of Montana, the county divisionists lost the appeal. The Supreme Court also held the petition for the creation of Petroleum County to be insufficient.

The Supreme Court denial came on July 11, 1923. In little more than a month, petitions were circulated to begin a second campaign for the creation of a county in eastern Fergus. Receiving the completed petition on October 10, 1923, the commissioners granted a hearing and

later set the date of the election. But an injunction in district court prevented the election. The divisionists appealed, and again the Supreme Court upheld the District Court. In granting a permanent injunction, the Supreme Court prohibited the county commissioners from proceeding with the election; hence, the second petition and election campaign ended as had the first, in failure.

On June 13, 1924, the county commissioners received the third petition requesting an election for the purpose of determining whether the citizens of eastern Fergus desired to create the county of Petroleum. The Fergus County commissioners declared the petition sufficient, and after a hearing, set the election for the general election date of November 4, 1924. In this, the last of many attempts, the Petroleum County proponents succeeded in their division attempts. Petroleum County became the eighteenth county to be created by petition and election and the last of Montana's fifty-six counties.

Why did the campaign for Petroleum County, which obviously had numerous and persistent proponents, take such extended effort to attain fruition? Why were the legislative efforts for this county thwarted, particularly in the 1919 legislative assembly which created eight other counties? What factors contributed to the success of the third petition and election endeavor after the failure of the two which preceded it? Questions such as these may be answered only by closer scrutiny of three significant features of the campaigns: (1) the individual campaigns for legislative resolutions and the legislative atmosphere of the time; (2) the respective campaigns by petition and election; and (3) the issues involved in each of the endeavors to divorce eastern Fergus from the

parent county. The examination of these factors comprises the subject of this chapter.

As mentioned previously, the first active attempts to create a county in eastern Fergus occurred in the legislative assemblies of 1919 and 1921. In each assembly, division proponents introduced two bills requesting creation of the county by resolution. Representative H. J. Faust (Republican, Granite) introduced the first of these proposals on January 15, 1919.<sup>1</sup> His bill, House Bill No. 57, provided for a line to be drawn to incorporate the area north and south through Fergus County from a point on the Great Divide fourteen miles east of Lewistown and to incorporate all the territory east of the line in the new county.<sup>2</sup> The bill for Cruse County was referred to the Committee on New Counties and Divisions. After discussion, the committee reported the bill back to the House on January 24 with the recommendation that it not pass.<sup>3</sup> This report was adopted and House Bill No. 57 died. The Helena Daily Independent, an opponent of all such schemes in 1919, commented on that event with the headline: "Guillotine Pair of County Bills: Committee on New Counties and Divisions Sorting Wheat From Chaff."<sup>4</sup>

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<sup>1</sup>House Journal 1919, p. 73.

<sup>2</sup>Fergus County Democrat, January 16, 1919.

<sup>3</sup>House Journal 1919, p. 131.

<sup>4</sup>Helena Daily Independent, January 24, 1919. At the same time a bill to create Cogswell County from Sheridan and Richland counties was killed. The article described the activities: "After deliberating yesterday afternoon the house committee on new counties and divisions brought the axe down on two more pet schemes, one on house bill 16 to create the county of Cogswell from Sheridan and Richland counties. It is also understood that the committee will make favorable report on house bill 59 to create Roosevelt county out of Sheridan." (Ibid.).

Eastern Fergus county divisionists reacted to the death of House Bill 57 by introducing a similar bill in the Senate. This bill, Senate Bill 54, was introduced the day after its forerunner was killed. Senator John E. Edwards (Republican, Rosebud) sponsored the bill to create the county to be known as McKinley. The McKinley bill originally included the same territory as that to have been incorporated in Cruse County.<sup>1</sup>

Initially, Senator Edward Donlan (Republican, Missoula) objected to the introduction of the bill, and moved that consideration of Senate Bill 54 be indefinitely postponed--a motion that if adopted, would have automatically killed the bill. Donlan withdrew his motion, however, and the Senate then transmitted the bill to its Committee on New Counties and Divisions.<sup>2</sup> A few weeks later on February 18, the committee reported the bill for McKinley County back to the senate without recommendation.<sup>3</sup> A motion by Senator Kinney (Republican, Wibaux) to adopt the report carried. At this point Senator Daniel Slayton (Republican, Musselshell) moved that the bill be indefinitely postponed; although seconded, Slayton's bill failed to pass.<sup>4</sup>

On February 20, the McKinley bill was referred back from the committee of the whole to the Committee for New Counties and Divisions.<sup>5</sup> Later that same day, the bill to create McKinley County passed in the

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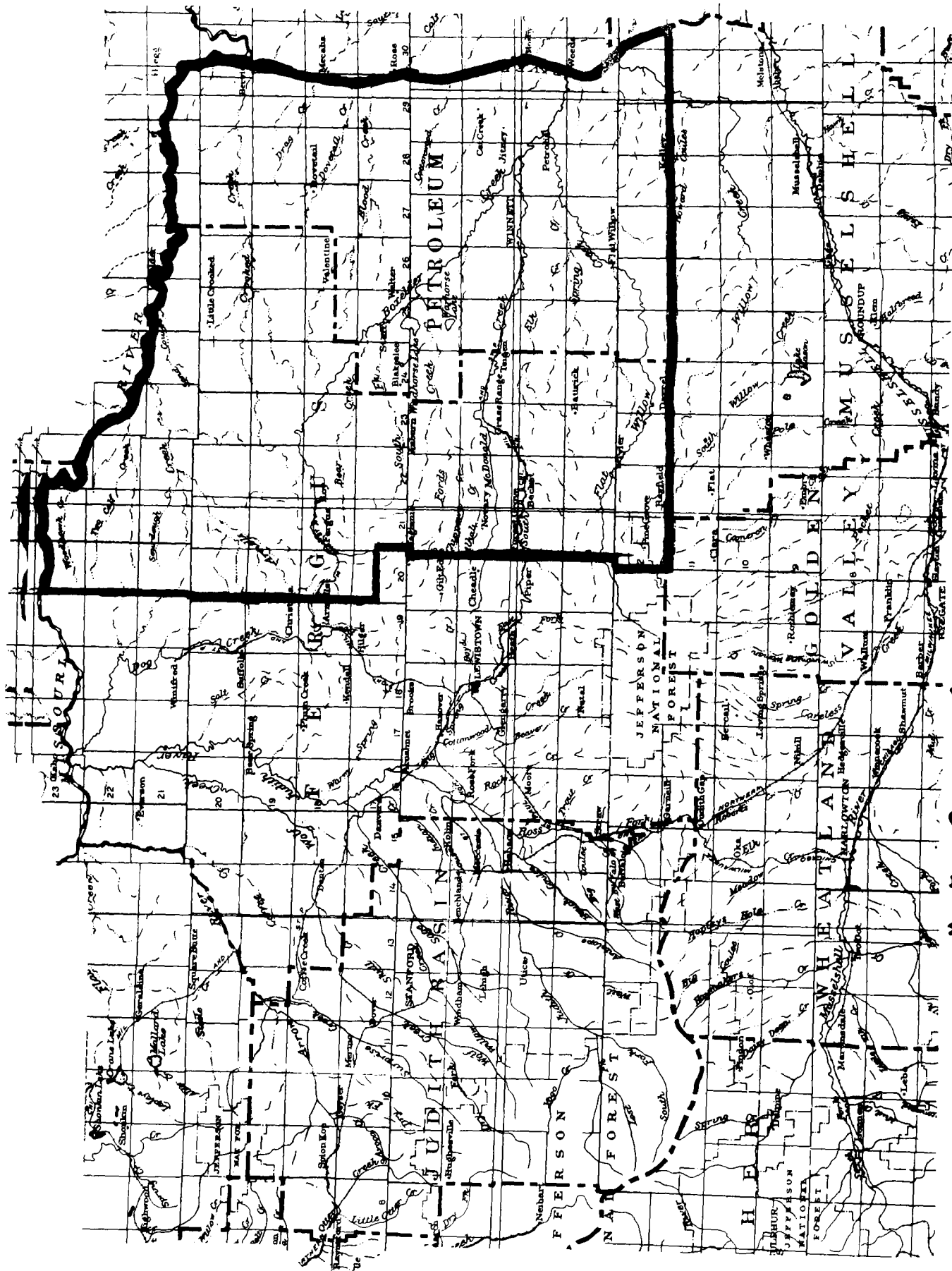
<sup>1</sup>Fergus County Argus, February 4, 1921.

<sup>2</sup>Since neither committee reports nor minutes have been kept from this period, no record is available which reports these transaction. Hence, no explanation for this action appears in the journals. Record of the motion and its withdrawal appears in the Senate Journal 1919, p. 122.

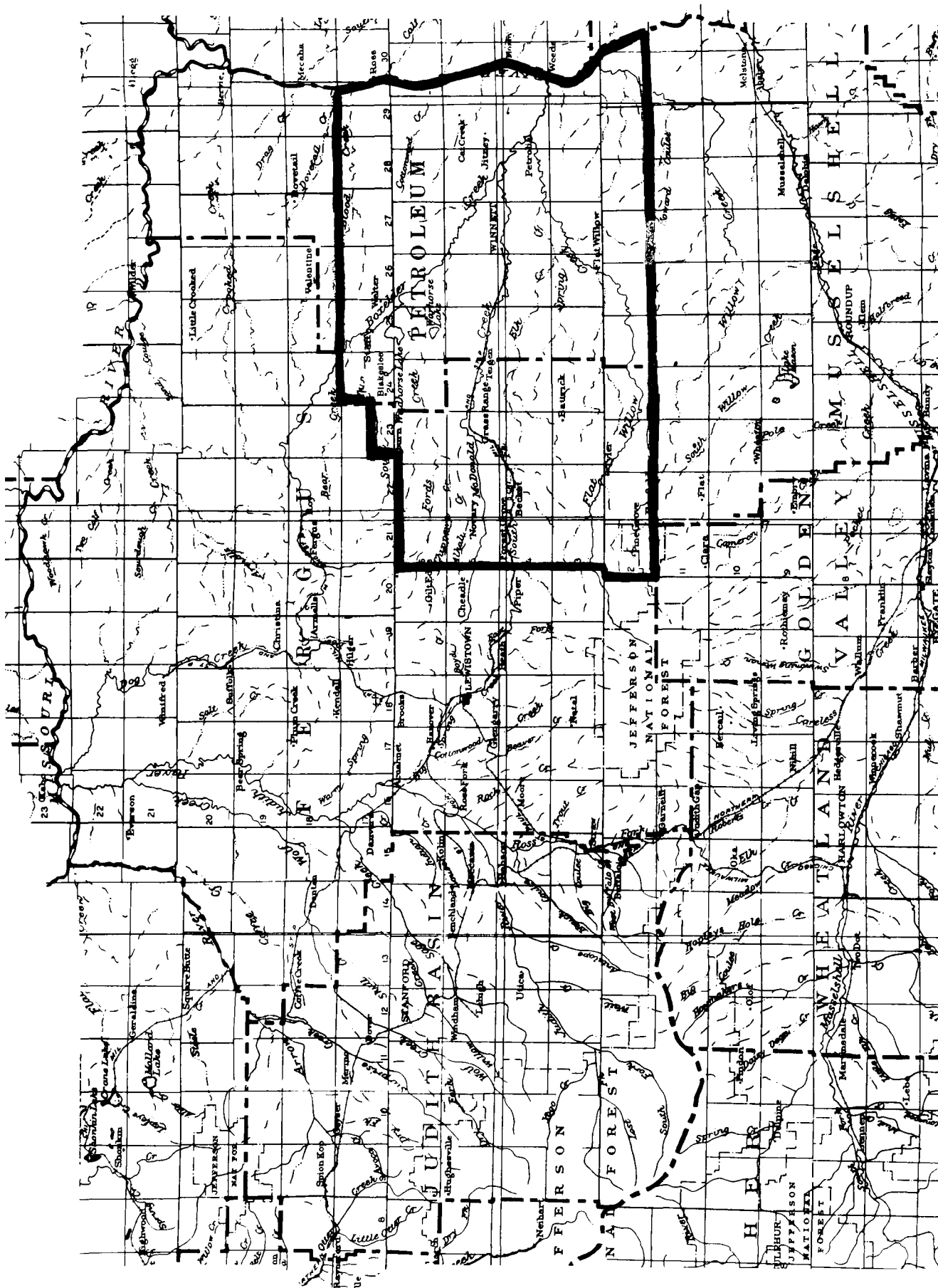
<sup>3</sup>Ibid., p. 314.

<sup>4</sup>Ibid.

<sup>5</sup>Ibid., p. 364.



MAP 7.—Proposed Cause Country, 1919 (HB 57).



MAP 2.---Proposed McKinley County, 1919 (SB 54).



Senate by a vote of 22 ayes and 14 noes, with seven absent or not voting.<sup>1</sup> Of the twenty-two ayes, eighteen came from Republican senators, four from Democrats. Five Democrats and nine Republicans voted against the creation of McKinley.<sup>2</sup> Senate Bill 54 then went to the House of Representatives.

Reaching the House on February 26, the bill went again to the Committee on New Counties and Divisions. The fate of the McKinley bill became clear when, on March 1, the committee recommended to the house that the bill not be concurred in.<sup>3</sup> Representative Dan Kelly (Democrat, Silver Bow) moved that as a substitute the committee's report not be adopted and that the bill be placed on General Orders. The motion of a Fergus County representative, H. T. Goodell (Republican) to table the matter prevailed. House Speaker O. W. Belden, also a Lewistown Republican ruled ". . . that motion of Goodell carried all previous motions before it . . . ." <sup>4</sup> An attempt four days later to revive the bill also failed. Frank T. Kelsey (Republican, Custer) moved ". . . that Senate Bill No. 54 be taken off the table and placed before the House on General Orders."<sup>5</sup> But Speaker Belden declared the motion out of order. Thus

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<sup>1</sup>Since neither committee reports nor minutes have been kept from this period, no record is available which reports these transactions. Hence, no explanation for this action appears in the journals. Record of the motion and its withdrawal appears in the Senate Journal 1919, p. 385.

<sup>2</sup>The senators from counties bordering or near the proposed county of McKinley voted as follows: Clay (R--Phillips), yes; Edwards (R--Rosebud), yes; Foster (R--Wheatland), yes; White (D--Fergus), yes; Lewis (R--Chouteau), no; Slayton (R--Musselshell), no; and Taylor (R--Blaine), absent and not voting. (Ibid.).

<sup>3</sup>House Journal 1919, p. 656.

<sup>4</sup>Ibid.      <sup>5</sup>Ibid., p. 759.

ended the first attempts to create a county in eastern Fergus by legislative resolution. The Fergus County Argus later recalled the effort as ". . . the biggest fight of the session . . . ."1

The sixteenth legislative assembly of Montana created seven new counties by resolution. Why then, did the bills for Cruse and McKinley counties fail? Examining the legislative scene leaves little doubt that definite interest in county bills existed at the time. As mentioned in Chapter I, nineteen bills for county creation originated in the House of Representatives alone. Even before the legislature convened, the interest in new counties was observable, according to the Helena Daily Independent. "County division schemes have played a prominent part in the ante-session struggle for power and place. Log rolling has already started on a gaud (sic) scale and with the number of axes to be ground there is every appearance that many bills will die a lingering death."2

The words of the Independent proved prophetic. Proponents for new counties from Fergus County alone introduced five proposals for new counties. The Fergus County Democrat observed on January 23 that "county division schemes are so numerous that they are disturbing the progress of the legislature in other directions somewhat." The article continued,

So far 22 county division schemes have been introduced and notice given of several others, so that most of the counties of the state are affected and have representatives there to aid or oppose the plan.3

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<sup>1</sup>Fergus County Argus, February 4, 1921.

<sup>2</sup>Helena Daily Independent, January 6, 1919.

<sup>3</sup>Fergus County Democrat, January 23, 1919.

And, indicating the interest for Fergus bills, the article stated, "There is a big Fergus county delegation and at one time Mr. Stanley counted 21 citizens from this county in the hotel lobby."<sup>1</sup>

Among those lobbyists urging passage of the McKinley or Cruse bills were the major of Grass Range, James H. Charters and a prominent cattleman of the area, L. M. Butler.<sup>2</sup> Charters would, in the next legislative session, represent Fergus County in the House and lead the second fight for the creation of Cruse County.

Yet if there were many lobbyists and legislators advocating the creation of a county from eastern Fergus, there were evidently more opposed to such action. Moreover, those opposed often held positions of influence. O. W. Belden, Republican representative for Fergus County and a resident of the county seat, Lewistown, held the position of Speaker of the House. His position rendered him capable of active opposition. Two years later the Fergus County Argus attributed the failure of the 1919 Cruse bill to Belden, proclaiming that

two years ago, attempts to create a new county out of the eastern part of Fergus precipitated the biggest fight of the session, a bill to create the county of Cruse, being introduced in the house and killed through the strenuous opposition of O. W. Belden and the business men of Lewistown.<sup>3</sup>

Undoubtedly, other legislators also objected to the creation of Cruse or

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<sup>1</sup>Fergus County Democrat, January 23, 1919.

<sup>2</sup>Fergus County Democrat, January 16, 1919.

<sup>3</sup>Fergus County Argus, February 4, 1921.

McKinley counties,<sup>1</sup> and to others as well--or at the very least, to their creation by the legislature rather than by the residents of the respective areas. Such an assumption is verified by the numerous measures introduced to halt the flood of county creation bills. One of the strongest of these proposals was the senate rule suggested by Senator J. B. Gnose (Republican, Deer Lodge). His resolution declared, in effect, that in view of the many grave problems facing the assembly, it should not consider all the county bills. As introduced, the resolution provided that

no bills creating new counties, or bills proposed to segregate portions of counties now existing and attaching them to other counties, shall be considered by the senate at this, the Sixteenth Session of the Montana legislature; and that the rules committee be instructed properly to number this rule in their report to the senate.<sup>2</sup>

As revised by the Committee on Rules, the resolution provided that no county division bills would be considered unless a majority vote of the senate favored such action. A motion carried 22 to 19 however, to kill the committee's resolution.<sup>3</sup>

Although Gnose's resolution failed, it did reveal a decided reaction

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<sup>1</sup>In this Republican-dominated legislature, the majorities were not able to draw a party position upon the creation of new counties. The Fergus County Argus (January 23, 1919) reported the dilemma of the party: "That the republicans are having difficulty holding their forces in line is evidenced by the number of caucuses they are having on the county division question. There is a tendency on the part of those having county division schemes to stand by the will of the majority, but they cannot get the divisionists to take the same point." Consequently, although the Republicans held 65 of the 98 seats in the house and 31 of 43 seats in the Senate, their ranks contained both divisionists and county creation opponents and the party could present no united front.

<sup>2</sup>Helena Daily Independent, January 16, 1919.

<sup>3</sup>Senate Journal 1919, pp. 47-48.

against legislative county creation<sup>1</sup> which undoubtedly contributed to the death of some of the more than fourteen county bills killed that session. Opponents of the formation by legislative resolution, such as Senator Edwards (Republican, Rosebud), voiced a belief that county division bills became a source of trading and log rolling. Consequently, many legislators suggested revision of the laws for county division by petition and election rather than reliance upon their creation by legislative resolution. Senator Gnose advocated just such revision, stating that he felt the laws should permit creation by the people of any county with sufficient assessed valuation to properly maintain county government and yet leave sufficient valuation in the parent county.<sup>2</sup> Senator Gnose and his supporters stated that the legislature should not create the counties. The legislature simply could not, they asserted, determine which measures were justifiable. Senator Gnose articulated the view when submitting his resolution. His speech summarizes the view of most opponents of legislative creation during the 1919 assembly:

Some twenty-two county divisions will be before the legislature for consideration, (he stated on January 15) by both the house and

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<sup>1</sup>Probably the major reason that the senate did not pass this resolution was the fact that as originally introduced, the resolution meant, in effect, that it would also prohibit House county bills from passage as well. As one Senator, Edwin Booth (Republican, Fallon) mentioned in opposing the resolution, "Please do not understand that I express myself as being in favor of or against the creation of new counties; those questions I shall decide for myself when they are presented to me. I do not believe, however, that the senate or the state of Montana has any right to inform the house of representatives that it will not even consider legislation that may be presented to it by the subordinate body of this assembly; for that reason I opposed and shall continue to oppose the resolution presented by Senator Gnose." (Helena Daily Independent, January 16, 1919).

<sup>2</sup>Ibid.

senate. Of this number several are undoubtedly justified in asking for their creation. But the past experience of all sessions of the legislature of Montana demonstrates the impossibility of segregating the deserving from the undeserving measures creating counties, when considered collectively by the legislature, the deserving carrying through the undeserving.

The effect on general legislation during contests for county creation has always been, expressed in mild terms, vicious--the enthusiasm of the promoters prompting them to resort to that most dangerous expedient, namely the trading of support for any form of legislation.<sup>1</sup>

Legislators in the house evidently concurred with senators that the fate of the prospective counties was better left to the residents to determine. On January 18 the house passed a resolution 49 to 33 to "refuse consideration to any new measure, when it is evident that it cannot go through without contention and augument."<sup>2</sup> The Helena Daily Independent called the resolution, introduced by H. S. Buell (Republican, Gallatin) ". . . a most effectual blow to new counties and county schemes, including county division activities where the residents of the affected districts are not in harmony."<sup>3</sup> And so it appeared to be. The proposed Cruse County and McKinley County bills failed when various sections of eastern Fergus disagreed on boundary lines. Two years later

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<sup>1</sup>Probably the major reason that the senate did not pass this resolution was the fact that as originally introduced, the resolution meant, in effect, that it would also prohibit House county bills from passage as well. As one Senator, Edwin Booth (Republican, Fallon) mentioned in opposing the resolution, "Please do not understand that I express myself as being in favor of or against the creation of new counties; those questions I shall decide for myself when they are presented to me. I do not believe, however, that the senate or the state of Montana has any right to inform the house of representatives that it will not even consider legislation that may be presented to it by the subordinate body of this assembly; for that reason I opposed and shall continue to oppose the resolution presented by Senator Gnose." (Helena Daily Independent, January 16, 1919).

<sup>2</sup>Helena Daily Independent, January 18, 1919.

<sup>3</sup>Ibid.

the Winnett Times recalled the failure of the 1919 legislature to create a county from eastern Fergus.

The reason why McKinley county was not created (affirmed the Times) by the last legislature, was on account of the internal opposition offered by many citizens of Winnett, Flatwillow, and Forest Grove sections which was so pronounced that for the time being it was impossible to accomplish that result.<sup>1</sup>

After viewing the dissension within the proposed county, the 1919 Montana House of Representatives killed both proposals.<sup>2</sup>

After the twin defeats suffered by the proponents of a county in eastern Fergus during the 1919 legislature, the advocates prepared to launch a second legislative campaign. To the 1921 legislative session the divisionists elected James H. Charters of Grass Range. Charters, who had lobbied for the eastern Fergus division bills in the sixteenth legislature, prepared to introduce and fight for the second bill in the seventeenth legislative assembly. The Fergus County Argus noted Charter's intentions on January 14, 1921, but indicated that as yet no

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<sup>1</sup>The Winnett Times, October 7, 1921.

<sup>2</sup>Even if the bills had passed both houses of the legislature, it seems probable that Democratic Governor Stewart would have vetoed them. He made his feelings quite clear on the matter of the creation of new counties by legislative resolution. His Biennial Message early in January, 1919, called particular attention to his disbelief in the method. He stated, "Already there is evidence of the activity on the part of the people of some of the various communities of the state looking toward the creation of new counties. During the time that I have been governor of Montana I have often stated my lack of confidence in the system of creating counties by special legislative enactment. I still believe it to be a mistaken course.

"It is possible under our constitution to have a general law under which counties may be created by the people themselves. If there is a necessity at this time for a new county division law of general application it may well be enacted. Your attention is directed to the matter . . ."

county division bills had appeared. In fact, reported the Argus,

although but little time has been spent in the advocacy of county division legislation during the first week of the seventeenth assembly there appears a strong current of opposition developing against the consideration of any such measures.<sup>1</sup>

Rumors to the effect that the house and senate might agree to entertain no county division proposals circulated but no action resulted.<sup>2</sup> Discussion prevailed as well concerning the possible introduction of as many as twenty new county bills. Among the two most frequently discussed was a bill described by the Argus as ". . . the Grass Range Project which would cut off a big slice of Eastern Fergus county . . . ." <sup>3</sup>

Discussion of county bills continued, yet the legislators introduced no bills for them during the first month of the legislature. Evidently they wished to prevent the flood such as that of the previous legislature. Finally, during the fifth week, on February 3, 1921, Fergus County Representative J. H. Charters introduced the bill already anticipated--House Bill 162 to create the county of Cruse from eastern Fergus. Under a headline "Charters Hopes to Cut Fergus Into Small Bits; Introduces Bill for Creation of Cruse County Which Will Come Within 15 Miles of Lewistown--Takes in Entire Oil Field," the Argus related the event as follows:

Unlike the regular session of the legislature of two years ago when a score of county division propositions were put before the assembly before it had really become organized, it was not until the beginning of this, the fifth week of the Seventeenth assembly, that county division has actually shown itself. County division

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<sup>1</sup>Fergus County Argus, January 14, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.



came into being Monday through the giving of notice by Representative J. H. Charters of Fergus county, of a bill to create the county of Cruse out of the eastern portion of Fergus county, which takes in the bit producing oil fields and the country tributary to Grass Range, Winnett and Roy.<sup>1</sup>

As explained by its author, the county would include all the territory in eastern Fergus beginning about fifteen miles east of Lewistown. Its area, approximately 2,200 square miles, contained the newly discovered Cat Creek oil field as well as 100,000 acres of irrigated land, four major creeks and the Musselshell river on the east.<sup>2</sup> The Argus considered the area to possess ". . . the great wealth being produced by the oil field . . ." as well as ". . . one of the richest agricultural sections of the state . . . ." <sup>3</sup> Representative Charters asserted that the territory's assessment of March, 1920 figured at \$22,000,000.<sup>4</sup> As in the 1919 bills, the new Cruse County bill incorporated the towns of Grass Range, Winnett and Roy and a population of approximately 5,000.<sup>5</sup>

Like the 1919 bill, House Bill 162 would be the subject of a lengthy legislative fight before its final defeat in the Senate. Fifteen days after the bill's introduction, the House Committee on New Counties and Divisions reported the bill with a recommendation that it pass.<sup>6</sup> A day later the Argus complained that ". . . the proposed new county leaves Fergus hardly enough territory to function as a county . . .," and predicted that the bill would probably fail.<sup>7</sup>

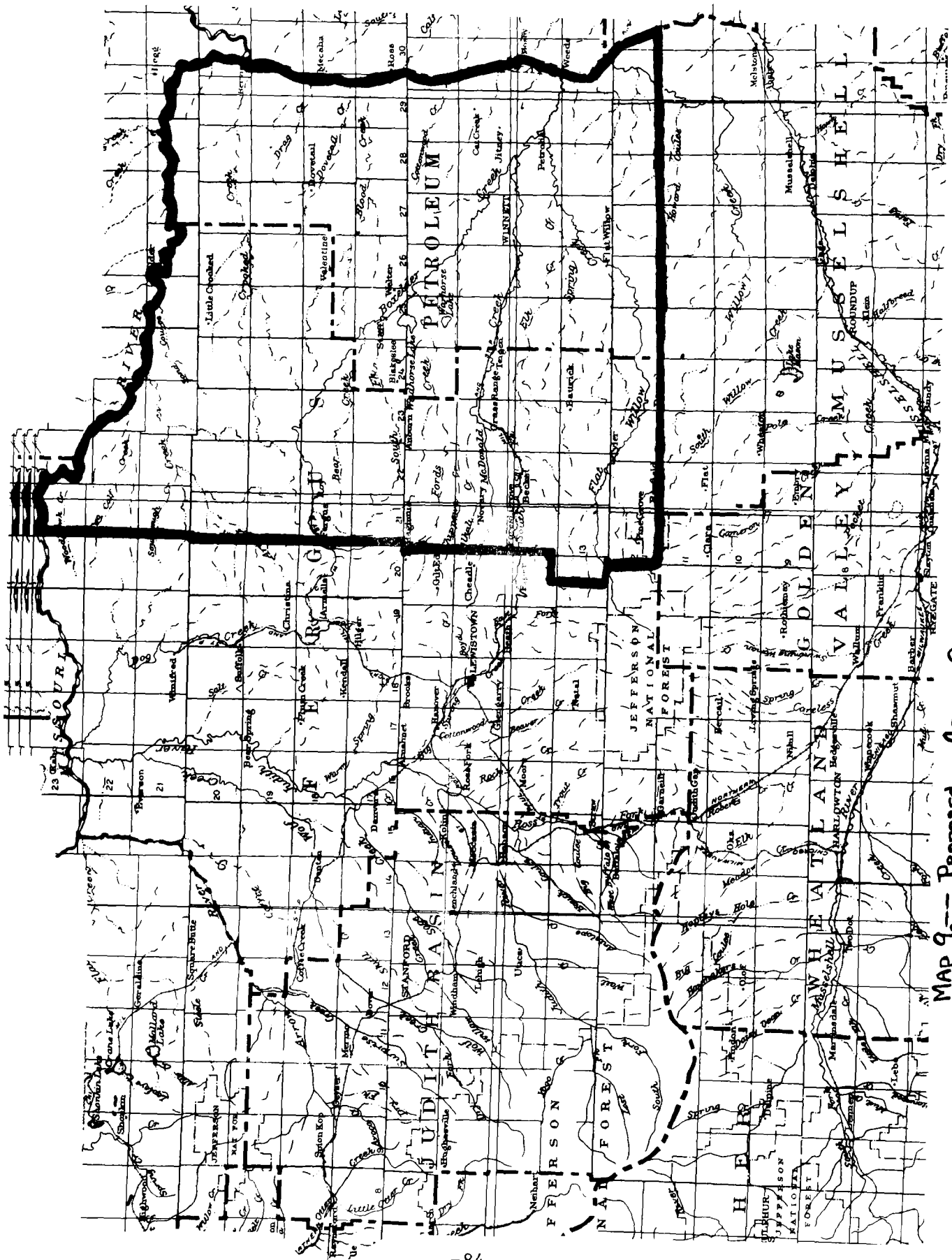
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<sup>1</sup>Fergus County Argus, February 4, 1921.

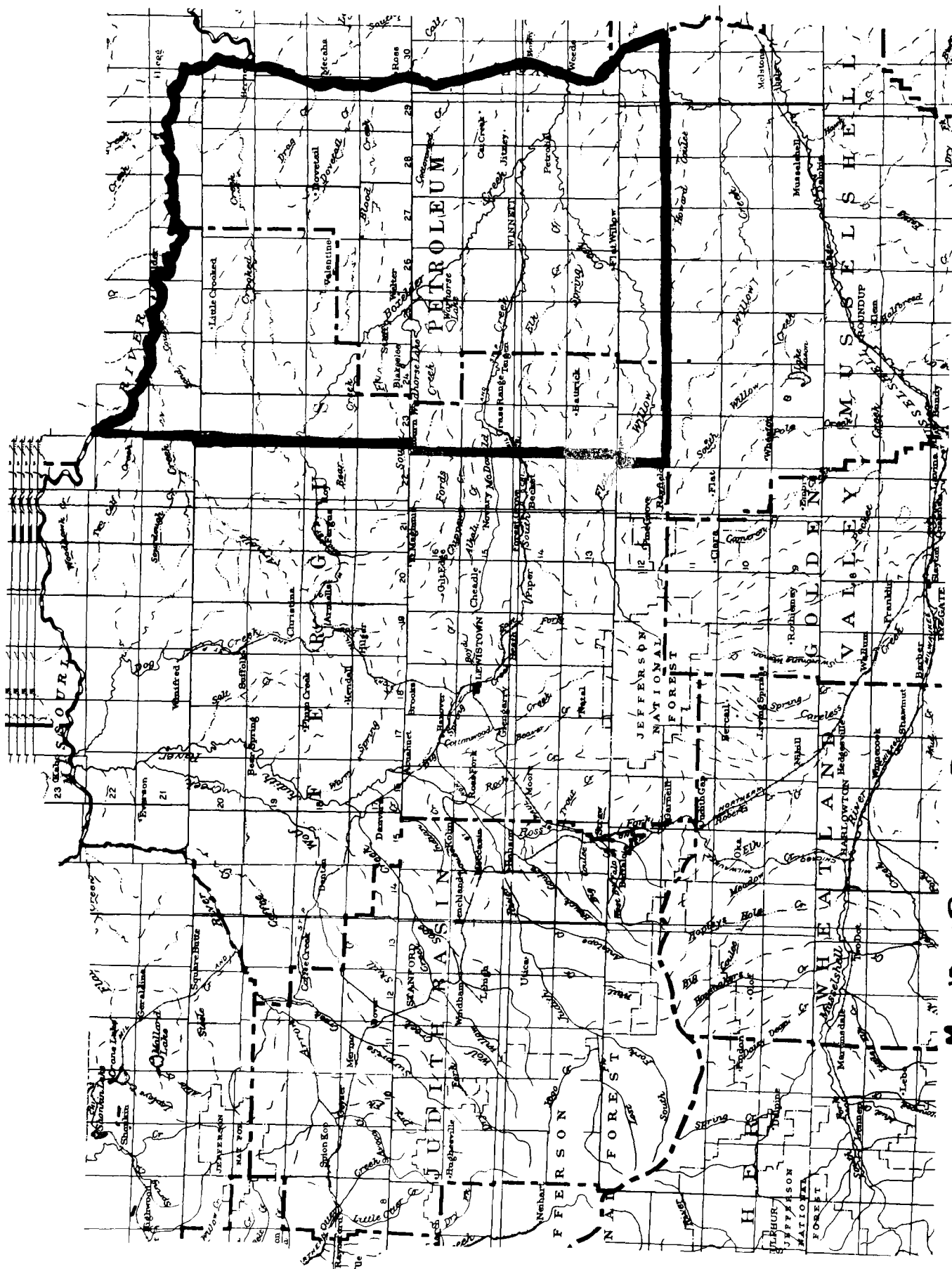
<sup>2</sup>Ibid.      <sup>3</sup>Ibid.      <sup>4</sup>Ibid.      <sup>5</sup>Ibid.

<sup>6</sup>House Journal 1921, p. 548.

<sup>7</sup>Fergus County Argus, February 18, 1921.



MAP 9.-- Proposed CRUSE County, 1921 (HB 162).



Map 10.-- Proposed Edgerton County, 1921 (HB212).

Taking up the Cruse bill in a special night session, the Shouse passed the bill by a 64 to 14 vote.<sup>1</sup> Fifty-nine Republicans, three Democrats and one Independent voted for the measure in the heavily Republican house.<sup>2</sup> Thirteen Republicans and one Democrat voted against the bill. Representative Homer Gies of Fergus and a resident of Winnett, opposed this "Grass Range project" since his own bill for a county in eastern Fergus--the Edgerton County bill--differed from the Cruse bill.

After passage in the house, the Senate Committee on New Counties and Divisions received the bill February 22, 1921. On March 3 the Cruse County bill died in the Senate. The New Counties Committee, consisting of W. J. Paul (Republican, Powell), T. L. Clark (Democrat, Toole), F. B. Connelly (Republican, Yellowstone) and J. H. Leuthold (Republican, Stillwater) recommended that the Senate not concur in House Bill 162. The Senate, adopting the report, killed the second Cruse bill.

The remaining house bill to create a county in eastern Fergus had an even shorter life than that of the Cruse bill. House Bill 212 to create the County of Edgerton was introduced by Fergus County Representative Gies on February 8. The House Committee on New Counties and Divisions never reported the Edgerton bill out of committee. But the bill did incite some newspaper discussion. The Helena Independent

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<sup>1</sup>House Journal 1921, p. 569.

<sup>2</sup>The Republicans dominated the 1921 legislative assembly even more than they had the previous session. Republicans in the House of Representatives held 98 of 108 seats, the Democrats 9, and the Independents, 1. Of the fifty-four Senate seats, Republicans occupied forty-one. Democrats held the other thirteen.

mentioned the bill with the caption "Edgerton County Latest in Field-- People of the East End of Fergus Desirous of Separation. Split Long Expected."<sup>1</sup> The article quoted P. A. Berkin of Flatwillow, a lobbyist for the county:

"It has been generally understood for the last two years by the people of Fergus county that there should be a new county from the eastern part of Fergus," said Mr. Berkin last evening.

"For several years the county commissioners have given as their reason for paying no attention to our end of the county that we would have a new county there in 1921."<sup>2</sup>

Moreover, continued the article, "Most all of the people in eastern Fergus are in favor of the proposed Edgerton county. Conditions there today demand that the farmers and the oil interests be given a new county."<sup>3</sup>

In spite of the obvious interest in both eastern Fergus new county bills, both failed to pass in the 1921 legislature just as the two previous bills had failed to pass in 1919. Why? Once again, the reasons may be found both in the legislative atmosphere of the time and the internal division among proponents within eastern Fergus County itself.

In the legislature, reaction against the creation of new counties seemed considerably more prevalent and more loudly articulated than in the previous assembly. Numerous bills to curb further county creation were introduced during the seventeenth session, engendering one of the most ferocious struggles in the house. One of the first of such measures was introduced less than two weeks after the session opened. Senator

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<sup>1</sup>Helena Daily Independent, February 17, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.

Frnak Hazelbaker (Republican, Beaverhead) sponsored a bill which not only demanded a higher assessed valuation for prospective counties but which would require the consolidation of certain existing counties when their valuations fell below \$4,000,000.<sup>1</sup> The bill created quite a stir. The Helena Independent called the Bill ". . . a bombshell (tossed) into the ranks of the county splitters of Montana . . ." and predicted that the ". . . echoes of . . . (the Bill) will likely reverberate during the reminder (sic) of the session."<sup>2</sup>

Hazelbaker's bill was but one indication of the anti-county creation spirit in the 1921 legislature. Even more drastic than Hazelbaker's bill was that of Senator Paul (Republican, Powell), Senate Bill 117. As introduced, the bill provided that the minimum assessed valuation of a proposed county should be raised from \$4,000,000 to \$6,000,000.<sup>3</sup> Yet the New Counties Committee to which the bill was referred doubled the existing minimum assessed valuation to \$8,000,000; in addition the bill included a section providing that the residents of the parent county as well as the proposed county should vote on the division.<sup>4</sup> The Senate adopted Substitute Senate Bill 117, as suggested

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<sup>1</sup>Helena Daily Independent, January 15, 1921; and Helena Daily Independent, January 29, 1921.

<sup>2</sup>Helena Daily Independent, January 15, 1921.

<sup>3</sup>Helena Daily Independent, January 29, 1921.

<sup>4</sup>The effect of such a provision would almost without exception, doom the proposed county; residents of the mother county would rarely support a division. The Helena Daily Independent (Ibid.) reported that the voting section of the substitute bill had been modelled after a similar law in Oregon. As the paper affirmed, "Formerly it was practically impossible to create a new county in that state, for the law provided that the entire state voted on the division."

by the committee, without a dissenting vote.<sup>1</sup>

As predicted, the Paul bill met considerable opposition in the House where, according to the Independent, ". . . the county division advocates have transferred their fight."<sup>2</sup> Opponents of the bill stated that the bill would invariably prevent creation of a county by the people of the district affected. They predicted that county divisionists would once again occupy the legislature's time with their demands. One opponent declared that the bill would reinstall the old system of ". . . logrolling and swapping . . ." in the legislature. The opponent, Senator Clark (Democrat, Toole) thought partisan politics was responsible for the proposition.

"I rather suspect there may be a purpose in this. It has been my observation that whatever political party is in control when the legislature creates a new county the voters of the county are inclined to favor the party which gave them the county. Now this legislature is rather lop-sided as to being republican, well--need I say any more?"<sup>3</sup>

In spite of opposition, the Paul bill passed the senate and later the house, but with amendments. A conference committee, requested by the house, recommended that the assessed valuation of a new county be set at \$7,000,000--\$1,000,000 below the senate figure and \$1,000,000 higher than the house figure. The parent county's valuation must be \$10,000,000--

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<sup>1</sup>The effect of such a provision would almost without exception, doom the proposed county; residents of the mother county would rarely support a division. The Helena Daily Independent, January 29, 1921, reported that the voting section of the substitute bill had been modelled after a similar law in Oregon. As the paper affirmed, "Formerly it was practically impossible to create a new county in that state, for the law provided that the entire state voted on the division."

<sup>2</sup>Helena Daily Independent, February 3, 1921.

<sup>3</sup>Ibid.

\$2,000,000 under the senate proposal and \$1,000,000 more than that asked by the house. Moreover, the joint committee recommended that the new court house should be at least eighteen miles from the old court house; this was less strict than the senate's suggested twenty miles and more rigorous than the house-determined fifteen mile boundary. Finally, the conference committee did erase the section which would have enabled residents of the parent county to vote.<sup>1</sup>

Even with the original restrictions lessened, the Paul bill was a severe blow to the county divisionists. Indicating the controversy over county creation which existed within both houses, the bill proved to be a storm indicator suggesting that the Cruse County bill to create a county in eastern Fergus would suffer eventual defeat. Commenting on the Paul bill, the Independent predicted the fate of the new county bills.

In view of the attitude of the senate, it is probable that the bills providing for the creation of Cruse, Joe Brown, and Redwater counties will be killed. A public hearing was held Monday night and although none was handed in yesterday, it is believed an adverse report will be the outcome after the meeting of the senate committee this morning.<sup>2</sup>

Two days later, the Cruse bill and two others died in the Senate.

Reflected the Independent,

The three new counties jimmied through the house by a heavy lobby which has been here most of the session, went to the scrap heap in the senate yesterday when Cruse, Joe Brown, and Redwater were slaughtered in adverse committee report, sustained by a heavy vote. Senator Edwards said a good word for Cruse County, which would include the Cat Creek oil field, but even his voice was not sufficient to stem the tide of hostility against new counties.<sup>3</sup>

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<sup>1</sup>Helena Daily Independent, March 2, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>Helena Daily Independent, March 4, 1921.



Senator Paul, chairman of the Committee on New Counties and Divisions and an avowed opponent of them, explained the adverse feelings of his committee and the senate. The members felt, he remarked, that ". . . it was an inopportune time to be making new counties, with the delinquent tax lists staring the public in the face everywhere (sic), financial tightness at present and general depression."<sup>1</sup>

The legislative defeat of the Cruse and Edgerton county bills in 1921 may be attributed, then, to a legislative atmosphere hostile to the creation of new counties. Yet it is probable that the bills would have died anyway as a result of their competitive natures and the internal struggles within eastern Fergus. Representative Charters of Grass Range sponsored the Cruse Bill to include Grass Range in the division; he opposed the Edgerton bill which did not include his section. Representative Gies of Winnett sponsored the Edgerton bill and expressed opposition to Charters' bill. Although the Edgerton bill never got out of committee, its sponsor refused to encourage passage of the bill to create Cruse County. Consequently, both bills might have died simply as a result of their sponsors' inability to compromise over boundaries.<sup>2</sup>

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<sup>1</sup>Helena Daily Independent, March 4, 1921.

<sup>2</sup>Fergus County Argus opposed both proposals, and attributed the lack of agreement over boundaries to competition over a future county seat location. While advocating the defeat of Charters' bill for Cruse County, the Argus emphatically opined, "Of course the whole world knows why Jim (Representative Charters) wants a new county. He has a vision that Grass Range is going to capture the county seat and become a great big city, and that would be a wimmer for James.

"The Argus believes, however, that he is in the same boat with the man who stated in a crowd that he could whip any other fellow in the whole world. When he got up off the ground and rubbed his bleeding nose, he remarked, 'Guess I took in too damn much territory.' That's Jim's fix. He has busted Grass Range's chances by taking in too much territory. If

Regardless of the reasons for defeat of the eastern Fergus county proposals, the fact that both the 1919 and 1921 legislatures failed to enact the necessary resolution to create a county suggested one thing to the county's proponents: they should utilize a method other than legislative resolution to get their county. That method would be the petition and election method. Perhaps it would succeed where the legislature had rebuffed their efforts.

Plans for a petition and election campaign soon emerged in eastern Fergus. In April, 1921, Daniel McKay, the well-known professional county splitter and organizer of such campaigns visited eastern Fergus; two years previously he had also visited the area, suggesting then that the time had come for ". . . the carving knife" to be used " . . . on the imperial county of Fergus."<sup>1</sup> When he arrived for his second visit, opponents of the division greeted his arrival with alarm and distaste.

The Fergus County Argus editorialized:

Dan McKay visits the oil fields. So runs an announcement in the press. Presumably from this report the industrious Dan is becoming interested in oil. Our guess is otherwise, however. Having just completed the creation of Banner county (an unfavorable Supreme Court decision prevented its organization) we believe that Dan is looking around for other spoils. It is well known of course that new county agitation has been tenderly fostered in eastern Fergus for some time. Both Grass Range and Winnett have county seat aspirations and are understood to be favoring a new county.<sup>2</sup>

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a new county is established according to the lines laid out in Jim's bill, Winnett, with its oil field population, will whip the socks off of Grass Range for the county seat, . . . ." (Fergus County Argus, February 4, 1921).

<sup>1</sup>Fergus County Democrat, January 9, 1919.

<sup>2</sup>Fergus County Argus, April 8, 1921.

The Winnett advocates did enlist McKay's services. With his aid, new county committees launched their campaign July 30, 1921. The Winnett Times had already voiced the thought of most eastern Fergus residents in 1921--"with the oil fields in Eastern Fergus County this section has possibly the greatest valuation of any whole county in the state excepting some of the mineral counties."<sup>1</sup> Consequently, the proponents wholeheartedly accepted the suggestion of Dan McKay to name the new county Petroleum. What name could be more appropriate? "This being the only real proven oil field at present in the Treasure state he (McKay) could think of no more fitting name."<sup>2</sup>

At the organizational meeting during which McKay suggested the name Petroleum, the division committee outlined its schedule. A division headquarters had already been opened. The proponents would immediately arrange mass meetings in all parts of the new county, where petitions would be circulating concurrently. The Winnett committee also announced the territory to be included within the new county. Unlike the proposed Cruse County, Petroleum would not include territory as far west as Grass Range. Based more on the Winnett-drawn Edgerton plan, Petroleum would exclude that area. Petroleum's boundaries would incorporate over sixty townships--an area which the proponents called ". . . as large a county as conservative men consider justifiable."<sup>3</sup> In so defining the county, the proponents were inciting the enmity of Grass Range which

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<sup>1</sup>The Winnett Times, June 24, 1921.

<sup>2</sup>Fergus County Democrat, January 9, 1919.

<sup>3</sup>The Winnett Times, August 19, 1921.

sought inclusion in a county divided along the Cruse lines. Petroleum advocates explained, however, that to take in more territory would mean annexing what they were trying to leave--a large unit of county government.<sup>1</sup> As an intended consolation, the Petroleum committee suggested that Grass Range might devise its own scheme for another county; "there is still a vast wealthy territory between here and Lewistown from which one of the richest counties in the state can be formed," the Winnett people submitted.<sup>2</sup>

As conceived by the proponents, Petroleum County would divide Fergus County east of the range line between ranges twenty-three and twenty-four or north and south three miles east of Grass Range.<sup>3</sup> The Cat Creek fields, the Flatwillow and the McDonald irrigation projects lay within the lines. Fergus county's official publication, the Fergus County Argus, using the tax assessments for 1921, estimated that on a 100 per cent valuation the Petroleum area would have an assessed valuation close to \$12,000,000.<sup>4</sup> Opposing the project, however, the Lewistown paper indicated that ". . . as a general rule one-third of this (the 100 per cent valuation) will give the taxable valuation;" hence, according to their figures the taxable valuation would be less than four millions and "Petroleum county . . . would be bankrupt before it

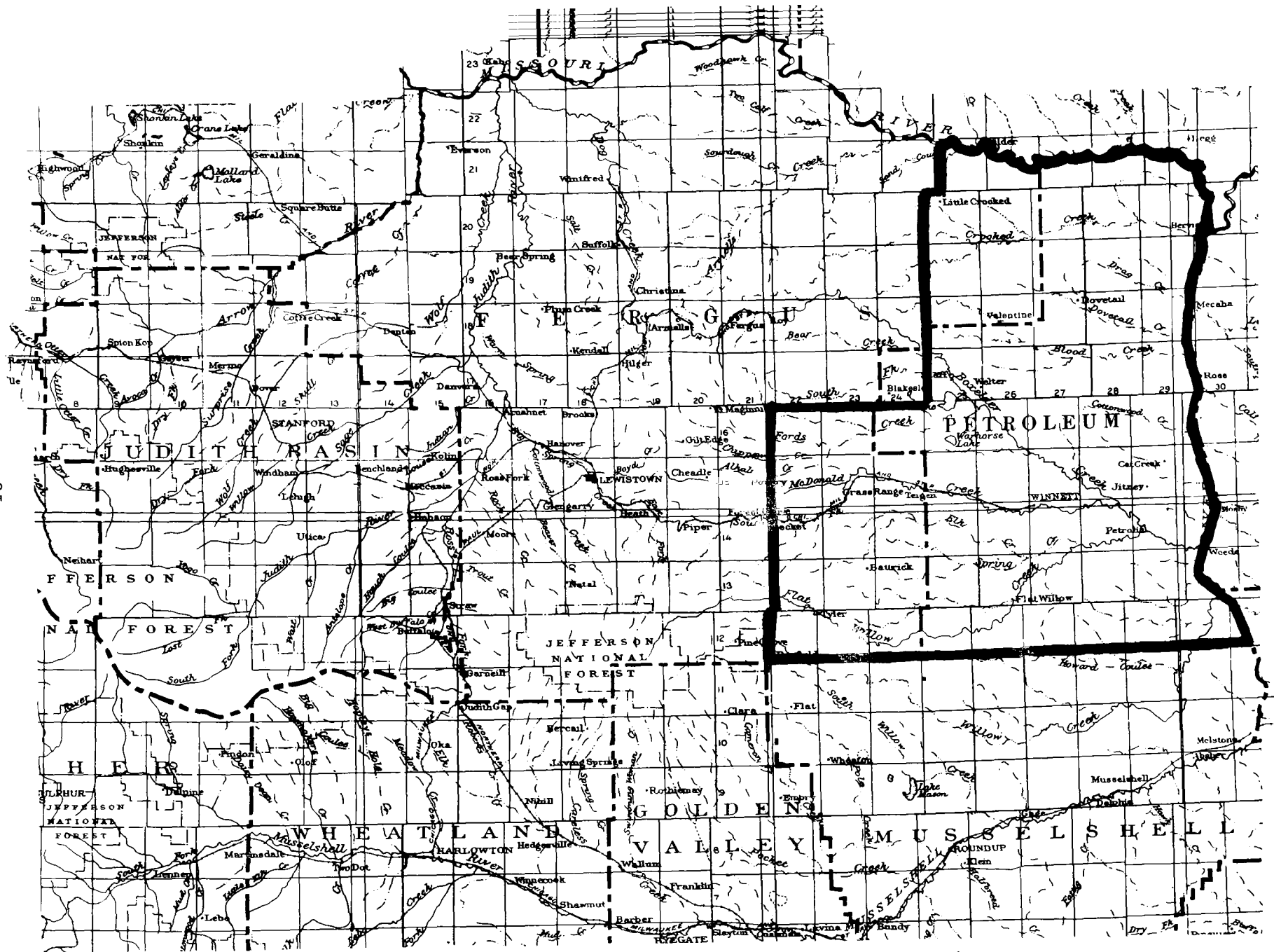
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<sup>1</sup>The Winnett Times, August 19, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>Fergus County Argus, September 30, 1921.

<sup>4</sup>Ibid.



MAP 11.-- Proposed PETROLEUM County of First PETITION and election campaign.

was organized."<sup>1</sup>

The Petroleum County people seemed not to concur with the Argus. The drive to obtain signers for the petition to hold an election and decide the issue by vote gained momentum. In early December, 1921, Daniel McKay addressed a mass meeting in Winnett. He indicated that the county commissioners would receive the petition as a Christmas present and that he felt assured the county would be created. By all indications, Petroleum County would be in operation by April, 1922.<sup>2</sup>

The wrap-up campaign took longer than the campaigners anticipated.

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<sup>1</sup>In the same extensive article, the Argus stated (in part) that "against the taxable valuations the various levies for various funds and purposes are figured and as the new county is in an embryonic state we must use the Fergus county levies for a basis of computation. Since they compare very favorably with those of other counties in the state they will be very close to the actual levies used, should the county come into being.

"Based on all the data that we can secure, it will not be out of reason to state that the new county will begin functioning with an indebtedness of not less than \$300,000."

The Argus suggested that the new county would include a territory 60 miles by 36 miles, about 2,200 square miles and 70 townships--for which ". . . you have the sum of \$23,000 to expend for roads." Moreover, the county surveyor figured that during 1920 and 1921, over \$35,000 of county road money had been spent in Winnett alone; ". . . revenue derived from taxes in the entire new county totalled in those years less than \$18,000,. . ." based on the general fund alone.

The Argus concluded that "it would seem . . . with the actual figures before us, that with the prospect of a new court house to be built, new fixtures to be installed, the heaviest road work in eastern Montana to construct and a revenue of only \$22,000 to construct it with, with numerous bridges to maintain and many more to construct with about \$22,000 to meet the general operating expenses of the county, excluding courts, salaries, juries, etc., etc., etc., it would seem folly to create a new county that would be bankrupt before it gets started." (*Ibid.*).

<sup>2</sup>The Winnett Times, December 16, 1921.

The petition was not filed until April 18, 1922. As a result the commissioners did not hold the hearing on the petitions for the proposed new county until May. When the hearing opened, Homer Gies and R. H. Weidman of Winnett, in addition to Ralph Anderson of Lewistown represented the petitioner. Charles J. Marshall of Lewistown appeared for the county commissioners who also had Judge H. Leonard DeKalb as a legal advisor.

During the first day of the hearing, the commissioners accepted 221 of 300 names examined, struck fourteen names, called three duplicates and reserved decision on twelve others.<sup>1</sup> The hearing continued at a slow pace and within a week over 200 names had been eliminated, sixty because of defective registration. The crucial blow came when judges reflected about 130 signatures because they constituted ". . . withdrawals."<sup>2</sup> They explained that although the law permitted withdrawals of signatures from county petitions, withdrawals from withdrawal petitions were not mentioned in the statutes. The Argus predicted, "With approximately 200 names eliminated, it is doubtful if the petition will be sufficient as to the required number of names."<sup>3</sup>

The prediction proved accurate. On June 16, 1922 the county commissioners denied the petition for the creation of Petroleum County. According to their ruling, the commissioners found that the petition for the creation of Petroleum County did not contain the genuine signatures of 58 per cent of the electors of the proposed county.<sup>4</sup> Although the

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<sup>1</sup>Fergus County Argus, May 19, 1922.

<sup>2</sup>Fergus County Argus, May 26, 1922.      <sup>3</sup>Ibid.

<sup>4</sup>Fergus County Argus, June 16, 1922.

area met the other qualifications for a new county--it did contain property of at least four million dollars in assessed valuation, would not reduce Fergus to less than 1,200 square miles, would, itself, contain more than 1,000 square miles and would have no boundary passing within 15 miles of the Fergus County seat--its petition lacked necessary signatures once the commissioners excluded the unacceptable signatures.<sup>1</sup>

The promoters of Petroleum County refused to accept the decision. The Winnett Chamber of Commerce, claiming injustice and irregularities by the county commissioners, arranged to take the issue to the Supreme Court.<sup>2</sup> In October, they asked the Supreme Court for a writ to summon the commissioners<sup>3</sup> to give reason for their refusal to call the election. The Supreme Court replied that it had no original jurisdiction over the case; rather the petitioners should have gone to the district court at Lewistown.<sup>4</sup>

To take the case to the district court, the proponents of Petroleum County enlisted Archibald Farragher (Faragher), who applied for a writ of mandamus to order the commissioners to hold the election. The application for the writ raised three questions: (1) should the board have rejected exclusion petitions and (3) should the board have given effect to the withdrawals from the original petition.<sup>5</sup> Ruling on

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<sup>1</sup>Fergus County Argus, June 16, 1922.

<sup>2</sup>The Winnett Times, August 11, 1922.

<sup>3</sup>Commissioners for Fergus County at the time were B. F. Moulton, George F. Wright and Oscar Anderson.

<sup>4</sup>Fergus County Argus, October 20, 1922.

<sup>5</sup>Fergus County Argus, March 30, 1923.



the case late in March, District Judge Rudolph Von Tobel sustained the commissioners in each of the three counts,<sup>1</sup> and thus denied the application of Farragher.

Within two weeks the Petroleum County advocates announced their intention to appeal the case to the Supreme Court. The boosters had decided that although they could start another campaign, it might meet the same fate as before without a Supreme Court decision to clarify certain points of law. Moreover, they hoped for a favorable decision. Consequently, the advocates formed a new finance committee to raise the necessary fees; this committee, comprised of A. L. Rasmussen, Elmer Eager, Dr. Alexander and R. H. Weidman, successfully gathered the funds.<sup>2</sup> Once again, the committee obtained attorneys Gies and Weidman and Ralph Anderson of Lewistown to represent the appellants. J. Otis Mudd and Elmer Eager of Winnett signed the bond for appeal costs on April 6.<sup>3</sup>

The Petroleum case, State ex. rel. Faragher v. Moulton entered the Supreme Court June 26, 1923, and the decision denying the appellants came on July 10, 1923. Mr. Justice Holloway delivered the decision, with Mr. Chief Justice Callaway and Associate Justices Cooper, Galen and Stark concurring. In denying the appeal the court held:

the right of one who had signed a petition for the creation of a new county and then signed a withdrawal of his name therefrom, to thereafter and before the hearing withdraw from the withdrawal is not absolute, and therefore no clear legal duty being imposed

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<sup>1</sup>Fergus County Argus, March 30, 1923.

<sup>2</sup>The Winnett Times, April 13, 1923.

<sup>3</sup>Fergus County Argus, April 13, 1923.

upon the board of county commissioners to give effect to the withdrawal from the withdrawal, mandamus does not lie to compel it to do so.<sup>1</sup>

The decision of the Supreme Court ended the first petition and election campaign to create Petroleum County. It also illuminated the actions of the county commissioners in their earlier refusal to call the election.

Justice Holloway recalled the events leading to the denial of the petition by the Fergus County commissioners. After the petition praying for the creation of Petroleum County had been filed with him, the county clerk set May 18, 1922 at 10 o'clock a. m. for the hearing. One day prior at 4:45 p. m. petitions for the exclusion of territory were filed. At the same time, R. W. Blake filed a protest against the creation of the county. The next day before the hearing a paper with 100 signatures was filed with the clerk; the paper bore the title "Withdrawal from Withdrawal from Petition for the Creation of the Proposed New County of Petroleum."<sup>2</sup> A "withdrawal" petition of considerable length also appeared that morning.

The county commissioners found, according to Justice Holloway, that 1,319 qualified electors (who had voted in the preceding general election) lived in Petroleum County. After deducting from the petition the qualified signatures on the "withdrawal" petition, the commissioners discovered that only 685 or less than 58 per cent of the signatures of the qualified electors appeared on the petition. The commissioners ". . . accordingly dismissed the petition and refused to proceed further."<sup>3</sup>

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<sup>1</sup>State ex. rel. Faragher et. al, Appellants, v. Moulton, et. al., Respondents, 68 Mont. 219, 216 Pac. 804 (1923). Cited hereafter as Faragher v. Moulton.

<sup>2</sup>Ibid.                      <sup>3</sup>Ibid.

The Justice indicated that the only complaints against the board were: (1) that it considered the Blake protest; (2) that it failed to disregard the exclusion petitions; and (3) that it failed to give effect to the withdrawals from the withdrawals.<sup>1</sup> The court ruled that Blake's protest merely emphasized the fact that the petition lacked sufficient qualified signatures; whether the board noticed the protest or not mattered little if the county commissioner's decision complied with Section 4392, Revised Codes of 1921, commanding them to determine whether the petitions contained the requisite signatures. The court held that the counsel for appellant erred on one point. A protest petition, according to Section 4394, need not be filed before the day of the hearing. Rather, petitioners and protestants were to be heard ". . . upon the petition or protests filed on or before the time fixed for the hearing."<sup>2</sup>

Concerning the second count, the court noted that the appellants alleged the board failed and refused to disregard the petitions for the exclusion of territory. However, the court stated, such was not the case; the order of the board disclosed that it refused to proceed with the election solely because of insufficient signatures. The commissioners did not consider the exclusion petitions at all.

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<sup>1</sup>State ex. rel. Faragher et. al, Appellants, v. Moulton, et.al., Respondents, 68 Mont. 219, 216 Pac. 804 (1923). Cited hereafter as Faragher v. Moulton.

<sup>2</sup>Ibid., citing Montana, Revised Codes (1921), sec. 4383. The Justice stated that the section commanding the petition to be filed at least one day before the date of hearing referred ". . . only to petitions for the exclusion of territory and protest against such exclusion." (Faragher v. Moulton, 68 Mont. 219, 216 Pac. 804 (1923) ).

The third and major issue concerned the contention that the board discounted 109 qualified signers who withdrew from withdrawal petitions and whose signatures made the petition legal with 794 signatures. In answering the question whether a person could sign a petition, sign a withdrawal and withdraw from the withdrawal, the Supreme Court reviewed similar cases and concluded that ". . . there was not imposed upon the board the clear legal duty to give effect to the withdrawals from the withdrawals . . . ." <sup>1</sup> The only legislative declaration upon the subject, (Chapter 226, sec. 2, Laws 1919; sec. 4393, Revised Codes 1921) mentioned only withdrawals of signatures to the original petition for creating a county. Thus, concluded the court,

While this provision does not in terms prohibit a withdrawal from a withdrawal, it does give recognition only to the right to withdraw from the original petition, and may be said fairly to indicate a legislative intent that the right shall not be extended further, upon the familiar maxim, expressio unius est exclusio alterius. In any event, we are satisfied with the correctness of the conclusion announced in State ex. rel. Fadness v. Eie, . . . ., and since there was not imposed upon the board, the clear and legal duty to give effect to the withdrawals from the withdrawals, mandamus will not lie in this instance. <sup>2</sup>

Although the above decision put an effective finish to the first petition and election campaign to create Petroleum County, it by no means ended the endeavors of the county boosters. Like they mythical phoenix, a second Petroleum County campaign emerged from the ashes of the first. The county boosters--particularly those of Winnett--were

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<sup>1</sup>State ex. rel. Faragher et. al, Appellants, v. Mouton, et. al., Respondents, 68 Mont. 219, 216 Pac. 804 (1923). Cited hereafter as Faragher v. Moulton, citing Montana, Revised Codes (1921), sec. 4383. The Justice stated that the section commanding the petition to be filed at least one day before the date of hearing referred ". . . only to petitions for the exclusion of territory and protest against such exclusion."

<sup>2</sup>Ibid.

determined to fight until the creation of a county in eastern Fergus resulted. The headlines of the Winnet Times, published three days after the unfavorable decision illustrated their point of view: "Another Effort to be Made to Divide Fergus County by the Indignant Citizens of the East End--Not Determined Yet where west line will be drawn--will continue fight for justice indefinitely--no idea of giving up."<sup>1</sup> The Times called the treatment of the Supreme Court "unjust" and "Autocratic", the county commissioners "three men permitted to blockade" and forbid franchise right to a great number of citizens.<sup>2</sup>

In actuality the boosters had begun their drive for the second petition campaign even before the Supreme Court verdict. Recirculation of the petitions, the advocates had stated, would in no way effect or hurry the Supreme Court decision; nor could such action harm their case. On the other hand, in the eventuality that the verdict proved unfavorable,

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<sup>1</sup>The Winnett Times, July 13, 1923.

<sup>2</sup>Ibid. Appealing to the sense of tradition of its readers, the Times continued to vent its wrath and indignation. When three men could prevent the vote of many on a public issue, ". . . you have taken action that breeds the spirit of revellion; you have taken action that revives the spirit of our forefathers in their heroic battle for liberty and the unseating of tyranny (sic); you have taken action that makes good men and women fight on and on tho their morale be low and their financial condition weak; you have taken action that wins the contempt of all fair-minded citizens and tho the trail be long and rocky, Justice, tho wearied, will reach the goal." (Ibid.). The Winnett Times was by far the most venomous paper writing on the issue--perhaps because its editor, C. J. Doherty, was so directly involved in the fight. He was both a publisher advocating the eastern Fergus viewpoint and a member, himself, of the Winnett Chamber of Commerce. In addition, of course, he stood to gain the printing contracts of the new county.

a signed petition would be ready for presentation to the county commissioners.<sup>1</sup> Holding this viewpoint, the Winnett proponents outlined their plans in late April, only a few days after the submission of the first case to the Supreme Court. The services of Dan McKay were obtained temporarily. He arrived April 24 and the Times reported that "County Buster McKay arrived here Tuesday to take charge of affairs and no time will be lost in getting into the field."<sup>2</sup>

Prior to the circulation of petitions, the divisionists encountered one severe obstacle--lack of agreement concerning the determination of boundaries. Eliminating Grass Range from the proposed county during the previous attempt had engendered intense bitterness and undoubtedly contributed to the strength of the opposition forces. Unless they wished to encounter the same opposition, the divisionists felt their new scheme should meet the approval of that area.<sup>3</sup>

As the strategists formulated their campaign plans, they suggested several boundary alternatives. One interesting alternative entailed a two-fold division<sup>4</sup> whereby the citizens of eastern Fergus might join forces with those in northwestern Fergus to circulate joint petitions. Later, the areas would divide into two counties. The citizens of the northwestern area (Denton, Coffee Creek and east to Roy), after an earlier defeat in their attempts to form "Banner" county, expressed interest in the plan. It seemed probable that the strength of numbers and attack

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<sup>1</sup>The Winnett Times, April 27, 1923; and June 8, 1923.

<sup>2</sup>The Winnett Times, April 27, 1923.

<sup>3</sup>The Lewistown Democrat-News, July 17, 1923.

<sup>4</sup>The Winnett Times, June 8, 1923; July 27, 1923; and August 24, 1924.

might produce ultimate success for both sections of Fergus. Although discussed at some length and advocated by the "county splitter" the two-county plan withered within a few weeks.<sup>1</sup>

The more serious question of boundary involved simply how far west the western boundary of the proposed county should extend. The lines drawn must include territory with sufficient assessed valuation to meet the demand of the law, yet it must also be agreeable to the towns both inside and outside of the boundary lines. Representatives of Winnett, Grass Range, and Lewistown met to discuss the matter of boundaries and to reach an acceptable compromise. When first discussed, the boundary lines acceptable to Lewistown and Grass Range placed the western Petroleum County line at Teigen. A 30 per cent decrease in valuation, however, indicated that such a line would incorporate insufficient valuation.<sup>2</sup> Winnett announced, therefore, that a line no less than three to nine miles west of Grass Range would be acceptable and

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<sup>1</sup>Towns of the western and northern districts recognized their inability to finance a campaign--or for that matter, to establish a new county of their own. The inhabitants of Denton, for example, admitted the unavoidable facts. Pleased by the increasing success of the Petroleum endeavors, the Denton Recorder editorialized concerning their inability to combine with eastern Fergus in a dual county division struggle. "Whatever their intentions may be (said the Recorder of eastern Fergus residents) it is not likely that this end of the county will take a great deal of interest in a division movement this session. We are financially embarrassed so to speak, and money is one thing that talks when it comes to breaking away from Fergus county. It takes money and a lot of it. That of course is no argument against division and we are no better satisfied with out county government than we have been for ten years past, but we have spent our spare cash and until we can see a little more accumulated, we will have to go on sawing wood, and suffer the present county evils as long as they are sufferable." (The Winnett Times, September 17, 1923, quoting The Denton Recorder, n.d., n.p.).

<sup>2</sup>The Winnett Times, July 27, 1923.

sought the concurrence of the other towns.<sup>1</sup> After additional meetings, the boundaries were announced on August 31, 1923 to be as follows:

Commencing at the north boundary and going south--line between range 23 and 24 to township line between 21 and 20 when it jogs one mile west and carries on south to line between township 17 and 16 when it jogs east to range line between 24 and 25 and continues straight south past Teigen to township line between 13 and 12 where it jogs a mile west and continues south to the southern boundary of that county.<sup>2</sup>

The above line brought sufficient valuation (\$4,483,745)<sup>3</sup> of area, and also eliminated conflict, the Times reported.

With the boundary lines drawn, only one additional problem required solution before the petitions could be circulated. The name for the proposed county must be selected. At first the Winnett boosters rejected the name "Petroleum." Since the original fight had been unsuccessful, the advocates felt the name "Petroleum" might produce a negative connotation and advised another name be substituted. C. J. Doherty, Winnett editor, called attention to the naming issue; the county must be named soon. Doherty caustically mused that the county might properly be called "Necessity."<sup>4</sup> Names advanced included Crude, Frantz, California, Oil, Flatwillow, Corn, Ford, Dixon, Walsh, Pershing and others. One jesting gentleman proposed "Grasshopper County."<sup>5</sup> The Winnet Chamber of Commerce finally discussed the matter. Receiving a legal opinion to the effect that no restriction prevented them from

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<sup>1</sup>The Winnett Times, July 27, 1923.

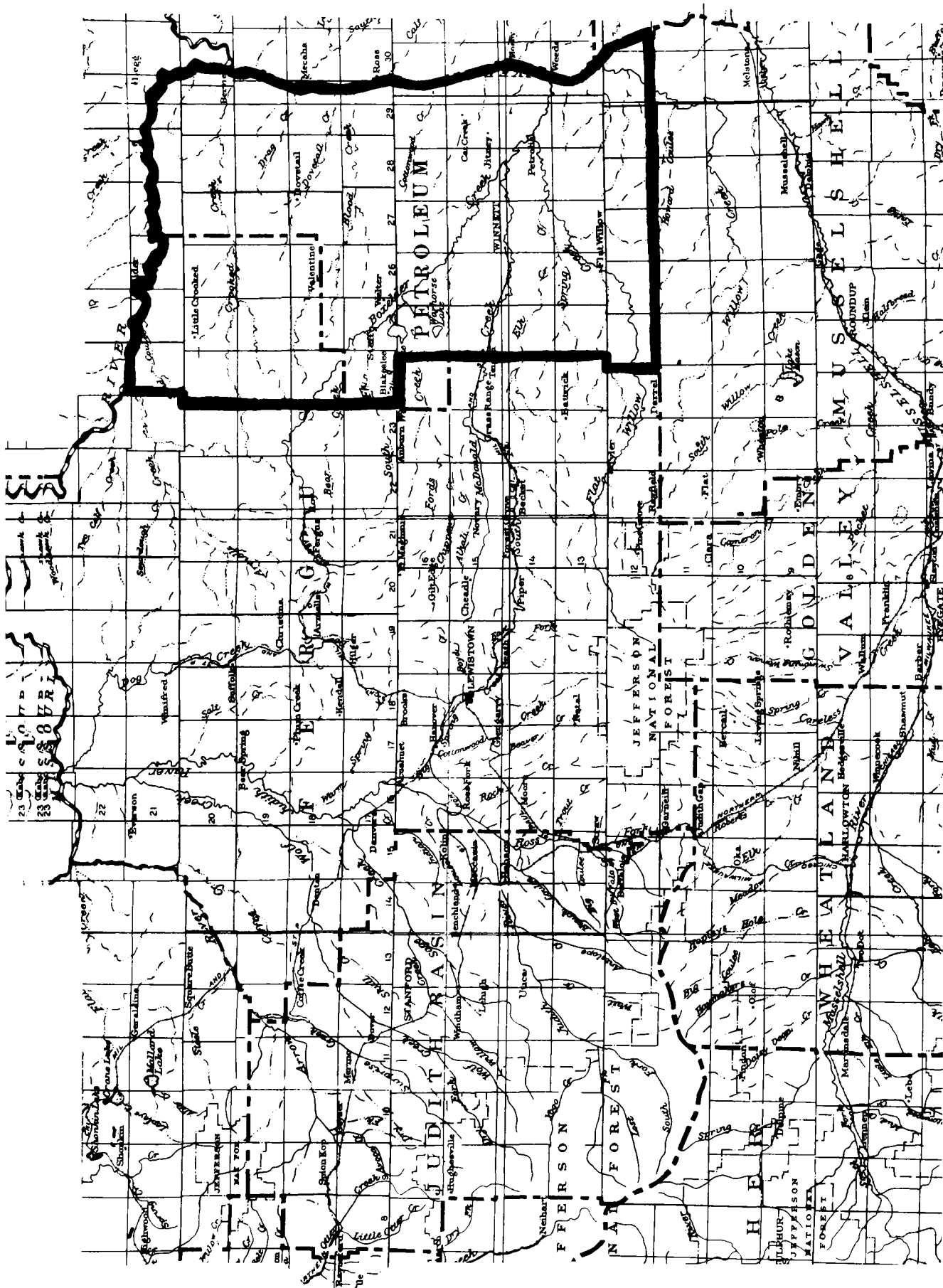
<sup>2</sup>The Winnett Times, August 31, 1923.

<sup>3</sup>Fergus County Argus, October 11, 1923.

<sup>4</sup>The Winnett Times, August 17, 1923.

<sup>5</sup>Ibid.





Map 12. -- Proposed Petroleum County of second petition and election campaign.

using "Petroleum" again, the Chamber voted to use that name a second time. Commented the Times, "Therefore the next county division fight will be carried on under the good old name of Petroleum, a name which practically every man, woman and child in all Fergus county is familiar with."<sup>1</sup>

As circulation of petitions for Petroleum County began throughout eastern Fergus, most residents of the county predicted a successful outcome. The oil companies promised not to fight the proposition, but rather to leave it to the determination of the voters.<sup>2</sup> The farmers of the county were reportedly enthusiastic--supposedly believing that a new county would be "economically and politically" advantageous for them.<sup>3</sup> Some residents of other parts of the county now predicted that Petroleum County would materialize. Newspapers such as the Denton Recorder published in northwestern Fergus County, spoke of the county division campaign and wished the eastern section success. Its editor affirmed,

The east end of the county has at least a good oil field which has made many fortunes for many of their residents, and they should have little difficulty in financing another campaign, they (sic) will have a new county before long, in spite of the opposition they find in Lewistown. It usually (has in similar campaigns) required one campaign to find out who they (the divisionists) have to fight, the next time they find less trouble.<sup>4</sup>

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<sup>1</sup>The Winnett Times, August 24, 1923.

<sup>2</sup>The Winnett Times, August 31, 1923.

<sup>3</sup>The Winnett Times, September 21, 1923.

<sup>4</sup>The Winnett Times, September 7, 1923, quoting The Denton Recorder, n.d., n.p.

Impelled by such optimism as well as by the declarations of Lewistown and Grass Range not to fight the campaign, the proponents of Petroleum County circulated the petitions and obtained signatures. On October 10, 1923, the election petition containing the signatures of 71 per cent of the registered voters of eastern Fergus was presented to the county commissioners. The petition, filed by C. J. Doherty, R. H. Weidman and W. A. Sullivan of Winnett, stated the boundaries of the proposed county and declared its assessed valuation to be \$4,483,745.<sup>1</sup>

Fergus County commissioners George Wright, John Quickenden and Oscar Anderson set the hearing on the proposed Petroleum County for Wednesday, November 7, 1923. Upon learning the date of the hearing, the Winnett newspaper affirmed that no opposition had yet developed and optimistically declared in headlines, "All Corn County of Petroleum will Then Be Under Way--the Future Never Looked Brighter for Oil and Agriculture."<sup>2</sup> Even Lewistown reportedly promised not to oppose actively the hearing or election. Voters of Winnett, confident an election would result from the hearing, stated that all they desired was an opportunity to vote on the issue; if it failed, the county division movement in eastern Fergus would be dead for all time and the struggle terminated.<sup>3</sup> But the issue could not be decided without an election.

As the date for the hearing neared, the divisionists felt certain that if an election were held, Petroleum County would be a reality.

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<sup>1</sup>Fergus County Argus, October 11, 1923.

<sup>2</sup>The Winnett Times, October 19, 1923.

<sup>3</sup>The Winnett Times, October 12, 1923.

For the first time, the divisionists alleged, the Winnett oil fields and the agriculturalists of eastern Fergus would be represented in the legislature.<sup>1</sup>

The opposition lay dormant throughout the period of initial enthusiasm on the part of the divisionists. Overt opposition did not develop until the day prior to the scheduled hearing. As the county commissioners convened November 6 to discuss the hearing, Lewistown attorney Charles Marshall appeared for the opponents of the division. The anti-divisionists had hired Marshall, he said, ". . . at the eleventh hour." Wishing to review the case, Marshall requested a postponement of the hearing.<sup>2</sup> In view of Marshall's request and the fact that all withdrawals from the exclusion petition were not yet filed, the commissioners granted a postponement.<sup>3</sup>

The hearing for the second petition praying for an election to create Petroleum County convened November 20. With no vocal opposition at the hearing, the commissioners granted the Petroleum petition. They scheduled the election, in accordance with the laws governing county division, for a time between ninety and one hundred twenty days later.<sup>4</sup> Meanwhile, the commissioners considered the exclusion petitions which had been presented. They granted the exclusion of the citizens of Dory, the area of Valentine and Nordquist precinct in the northern area of the proposed county. A second petition to exclude western territory

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<sup>1</sup>The Winnett Times, November 2, 1923.

<sup>2</sup>The Winnett Times, November 9, 1923.

<sup>3</sup>Ibid.

<sup>4</sup>Fergus County Argus, October 11, 1923.

near Teigen was denied. After exclusion of the northern country valued at \$369,000, the proposed county possessed a valuation of over four and one-quarter million dollars according to the 1922 valuation.<sup>1</sup>

In addition to considering, granting or denying the various petitions, the commissioners classified the county: Petroleum County, if created by the voters, would be placed among Montana's counties as a seventh-class county. Supporting this classification, divisionist C. J. Doherty suggested that such classification, according to law, demanded governmental expense to be kept at a minimum. On the other hand, continued Doherty, Petroleum County possessed considerable resources which assured the financial success of the county regardless of classification; resources such as the famous Cat Creek field, "five undeveloped" oil structures, and three irrigation projects would ensure economic stability.<sup>2</sup>

For those like Doherty who had labored four long years for the creation of a county in eastern Fergus, the action of the commissioners seemed to indicate fruition of their plans. It was almost inconceivable for the proponents to think that after the petition's acceptance, the election might not take place. Yet in retrospect, the situation looked less promising, Petroleum County less a certainty. The friendly but skeptical Denton Recorder sounded a warning note:

While everything looks rosy, it would appear to us over this way  
that things are too good to keep. . . . .  
. . . . .

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<sup>1</sup>The Winnett Times, November 16, 1923; and November 23, 1923.  
<sup>2</sup>The Winnett Times, November 23, 1923.

There are many and obvious ways in which a new county may be consigned to oblivion besides the adverse ruling of county commissioners. It sounds a trifle fishy when the board of commissioners so meekly decides that petitions are well and good. Out of some fifteen hearings of petitions in this county this is the first O.K. without a hot fight and that after all these years, the board should show such a change of heart . . . .<sup>1</sup>

In reality, the opposition had never been as latent as the optimistic divisionists wished to believe. Several events indicated that opponents of the county would make some attempt to block the action. As previously mentioned, the anti-divisionists had engaged attorney Charles Marshall to represent them; Marshall made no attempt to block the hearing other than requesting its postponement, but it seemed likely legal action would ensue at some later date. Then too, agitators illustrated dissatisfaction in eastern Fergus by circulating withdrawal petitions prior to the hearing. Their success, although limited, did result in the filing of several withdrawal petitions by a farming element in the eastern section.<sup>2</sup> There was also evidence that some unrest in the area stemmed from a local disagreement over the oil royalty valuation of Fergus County and over the long-range value of the oil fields and their ability to support a county.<sup>3</sup>

The most potent force of opposition came not from the scattered farming or rural element which vacillated between support and opposition of the county, but rather from the major economic force within eastern Fergus--the oil element. Originally, as the campaign developed prior

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<sup>1</sup>The Winnett Times, December 14, 1923, quoting The Denton Recorder n.d., n.p.

<sup>2</sup>The Winnett Times, November 2, 1923.

<sup>3</sup>Ibid.

to the hearings, the oil companies had refrained from involvement.<sup>1</sup> Officials of the California Company stated their intention to remain disassociated from the campaign in order to leave the matter to the people. The Mid-Northern Company also remained neutral in the matter and refused to influence the opinions of their field men; this company began, however, to conduct investigations into the situation. While the Mid-Northern made no move to prevent the hearing, the impact of their investigations was soon witnessed.

On January 3, 1924, attorney Charles J. Marshall, acting for W. F. Garry, instituted a "friendly suit" to test the validity of the petition asking for the creation of Petroleum County. Marshall requested an injunction to prevent Fergus County clerk and recorder James L. Martin from proceeding with the February 23 special election. Marshall stated three complaints. In the first instance, Marshall contended, the valuation for the proposed county had been incorrectly determined; the law stipulated that the assessment figures for the current year (the year in which the filing of the division petition occurs) should be used; therefore, use of 1922, rather than 1923, assessment figures was invalid. In his second complaint Marshall raised the question of the valuation of oil royalties. Such valuation, Marshall alleged, should be based upon a valuation of forty cents on the dollar rather than 100 cents as used by divisionists.<sup>2</sup> Moreover, the utilization of the "correct"

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<sup>1</sup>The Winnett Times, December 14, 1923.

<sup>2</sup>The question was whether oil royalties were taxed on the same basis as the net proceeds of the mines or minerals. Prior to 1927, no law specifically related to the subject of royalties; therefore, the royalty would be included in classification one--"the annual net proceeds

valuation would drop the proposed county's valuation below its legal minimum and therefore prevent its organization. Finally, in his third point, Marshall alleged that notices of the hearing had not been published for two weeks in accordance with the law, and that as a result, the county commissioners "did not acquire jurisdiction."<sup>1</sup>

Of these three points, that pertaining to the oil valuation seemed most significant to both divisionists and anti-divisionists. Before the hearing, set for January 17, the divisionists asserted their belief that the oil companies were behind the suit. Oil royalty valuation

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of all mines and mining claims, after deducting only the expenses specified and allowed by section 2565 R C M (2090); also where the right to enter upon land to explore or prospect or dig for oil, gas, coal, or mineral is reserved in land by any person or corporation, the surface title to which has passed to another . . . "--or it would fit into classification seven, which was all property not included in the previous classifications. If royalties were determined to be in classification one, the basis for the imposition of taxes would be 100 per cent of its true and full value; whereas, if the royalties were taken to be in classification seven, the basis for taxation would be but 40 per cent of its true and full value. (R C M 1921, Ch. 159, sec. 1999.) That the royalty would be taxed (and included as net proceeds) was specified concretely in Mont. Laws 1927, Ch. 140. This law, enacted subsequent to the Petroleum County issue, indicates that the matter may be assumed from the Constitution. This assumption is stated in Forbes v. Mid-Northern Oil Co., 100 Mont. 10, 45 Pac. (2d) 673 (1935), where the court affirmed, "This chapter (speaking of the 1927 law above) further provides that the State Board of Equalization should proceed to the assessment of all such royalty interests at their full cash value, which shall be the full cash value of the money or product yielded as royalty during the preceding calendar year, and which royalty interests shall be taxed on the same basis as net proceeds of mines are taxed on the same basis as net proceeds of mines are taxed as provided by section 1999 of the Revised Codes of 1921." The judge continued, "The fact that the interest to be taxed as royalty is a part of the net proceeds of a mine brings the subject squarely within the contemplation of our Constitution (sec. 3, Art. XII). Such fact makes it unnecessary for us to classify the tax in a strict sense."

<sup>1</sup>Fergus County Argus, January 3, 1924.



provided about \$3,000,000 a year to the county, asserted the Winnett Times.<sup>1</sup> Should the injunction be granted, the oil companies would gain 60 per cent of that sum whereas county residents would have the amount added to their valuations, asserted the divisionists; and they added, back taxes would be remitted to the oil companies.<sup>2</sup>

In the matter of which assessment was to be used, Marshall charged that in keeping with Section 4393, Revised Codes of Montana, 1921, the "last preceding assessment" required use of the 1923 assessment. The defendants maintained that, in fact, the 1923 assessments were not completed at the inception of the division movement. Furthermore, they asserted that both the county attorney and the Attorney General had rendered opinions to the effect that in this instance the 1922 assessment would be considered the last preceding assessment.<sup>3</sup>

The question whether publication for the hearing had been legitimately made brought to the fore still other questions.<sup>4</sup> The impli-

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<sup>1</sup>The Winnett Times, January 4, 1924.

<sup>2</sup>Ibid. The Winnett Times (January 11, 1924) voiced the assumption that the oil companies were behind the movement for an injunction in no uncertain language. In one article entitled "Who Pays Marshall?," the editor stated, "There is no dodging the question as to who will benefit the most by the success of the action for an injunction against holding the election for the creation of Petroleum county."

"The oil companies will have their royalty assessment reduced from 100 per cent to 40 per cent the remaining 60 per cent, \$1,800,000.00 to be saddled onto the farmers and business men. Other than the oil companies we have the anti-divisionists in western Fergus who would wreck the county to satisfy their desire to prevent the creation of Petroleum county."

<sup>3</sup>The Winnett Times, January 4, 1924.

<sup>4</sup>It also resulted in the filing of a perjury suit by C. J. Doherty of the Winnett Times against W. F. Garry. Doherty charged that W. F. Garry had signed a false affidavit, in which he stated that the first notice of hearing had been published in the Winnett Times on

cations of the matter--if indeed, the Judge held that the publication of notice of hearing on October 26 and November 4 for the November 7 hearing did not constitute two weeks' notice--were far-reaching; in effect, such action might complicate use of a weekly publication as a legal publication.

In response to Marshall's action, a date and a judge, Judge von Tobel, were selected for the hearing. After transfer to a different department, the case came before Judge John C. Huntoon. Judge Huntoon disqualified himself and announced that Judge William C. Ford of White Sulphur Springs would hear the case.<sup>1</sup> Attorney Charles J. Marshall would, of course, appear as the plaintiff's attorney. R. H. Weidman would appear for the Fergus County Clerk, James L. Martin.<sup>2</sup>

In the hearing that followed, Judge Ford sustained the contentions of the anti-divisionists and ordered the temporary injunction to be made permanent. Defendant James L. Martin was ordered to refrain from printing ballots or making any arrangements for the election to create Petroleum County.<sup>3</sup>

The decision came as somewhat of a surprise to both Attorney Weidman and the Winnett Times. Weidman expressed an opinion, later found

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November 26 whereas the affidavit in the Clerk and Recorder's office stated such publication had been made October 26. Doherty, in taking the action, explained that he wished to clear the name of the Winnett Times as a legal publication. (Ibid.). Two weeks later, however, Mr. Marshall was allowed to amend his complaint and correct the date. Feeling vindicated, Mr. Doherty dropped his suit. (The Winnett Times, January 11, 1924).

<sup>1</sup>Ibid.      <sup>2</sup>Ibid.

<sup>3</sup>The Winnett Times, January 25, 1924, quoting Judgement of William L. Ford, rendered January 17, 1924.

to be in error, that Judge Ford's decision had been based upon the notice of publication issue.<sup>1</sup> The Times considered the decision incredible in that "not a point of law is mentioned, not a semblance of reason or excuse given for the decision;" consequently, the proponents claimed that they had learned nothing about the legal status of the case. Instead they had received a simple "no".<sup>2</sup>

Perhaps the greatest surprise of the case was not the decision itself but rather the events of the hearing. Appearing at the hearing to fight the creation of Petroleum County were two representatives of the Mid-Northern Oil Company,--its president Mark Danaford and attorney Donald Campbell.<sup>3</sup> In presenting the case of the oil company, Mr. Campbell admitted that their primary interest was in the taxation question. The Mid-Northern feared the creation of Petroleum County would increase its taxes. To support the company's position that such creation would be financially disadvantageous for both company and county, Attorney Campbell stated that in his opinion the Cat Creek field would last fewer than five years.<sup>4</sup>

The county proponents reacted to the overt opposition of the oil company with mixed emotions. First, they assailed the oil companies as

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<sup>1</sup>The Winnett Times, January 18, 1924.

<sup>2</sup>The Winnett Times, January 25, 1924.

<sup>3</sup>The Winnett Times, (January 18, 1924), editorialized with a "we knew it attitude" by headlining the issue "Smoked Out--Mid-Northern Against New County."

<sup>4</sup>Ibid. In another testimony President Ceoghan of the Mutual Company admitted he felt the field would produce for twenty years. (Ibid.).

selfish interests and disenfranchisers. Later, realizing the future implications of such opposition, the divisionists attempted to convince the oil companies that their taxes could not increase.<sup>1</sup> Finally, they argued, legislative representatives from the new county could effectively champion the cause of the oil companies in the state legislature.<sup>2</sup>

But the proponents did not stop at arguing the case in print by appealing to the oil companies. Simultaneously, they announced the county attorney's intention to appeal the case to the Supreme Court. When, a week later, the county commissioners stated they would not carry the case to the Supreme Court,<sup>3</sup> the divisionists of eastern Fergus proclaimed they would again finance the appeal.<sup>4</sup> Said the mouth-piece of the Winnett divisionists, editor Doherty, "The citizens of the proposed Petroleum county will fight on and on until Petroleum county is a reality and in this fight ask no quarter nor offer any."<sup>5</sup>

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<sup>1</sup>The Winnett Times, (January 18, 1924), editorialized with a "we knew it attitude" by headlining the issue "Smoked Out--Mid-Northern Against New County." In another testimony President Ceoghan of the Mutual Company admitted he felt the field would produce for twenty years. (Ibid.).

<sup>2</sup>Ibid.

<sup>3</sup>The Winnett Times, January 24, 1924.

<sup>4</sup>The Winnett Times, (Ibid.) bitterly attacked this decision of the county commissioners. The reason the county commissioners could not afford to take the Petroleum case, alleged its editor, was that their funds had been spent to gravel the roads around Lewistown. "After turning \$122,410.72 of outstanding road warrants into a refunding bond because some could not be paid," the article continued, "we find our honorable board of county commissioners well on the way to accumulating another like amount for a further refunding bond" and hence they could not finance the appeal.

<sup>5</sup>Ibid.

Appeal to the Montana Supreme Court in the case of Garry v. Martin was submitted May 26, 1924. For the second time, the issue of the creation of Petroleum County entered Montana's highest court. For the Respondent, attorneys Charles J. Marshall and Donald Campbell argued that request for an injunction was necessary since "no appeal lies from the findings of a board of county commissioners allowing or denying a petition for the creation of a new county."<sup>1</sup> A temporary injunction would prevent the expense of an election while the legality of the proceedings prior to the election was decided:

If the proceedings are illegal, and if the Board of County Commissioners of Fergus County had no jurisdiction to give the proclamation of election, then a permanent injunction will accomplish the desired result, and for this reason it is a proceeding countenanced by the law.<sup>2</sup>

The respondent contended that the county clerk had not--in keeping with the requirements of Section 4393, Revised Codes 1921,--made an order designating the newspapers to publish notice of the original hearing; rather, without published designation, the notice appeared in the Fergus County Argus and the Winnett Times.<sup>3</sup> In support of their contention that the 1923 rather than the 1922 assessment should have been used, Marshall and Campbell cited Sections 4390, 2002, 2126, 2160, and 2161. Revised Codes of 1921. These sections provided that the assessment for any year must be completed before the second Monday in July and delivered to the county treasurer the first Monday in October; in view of such laws,

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<sup>1</sup>Brief for Respondent, p. 5, Garry v. Martin, 70 Mont., 587, 227 Pac. 573 (1924).

<sup>2</sup>Ibid.

<sup>3</sup>Ibid., p. 15.

the 1923 assessment should have been completed by October 1, 1923, and therefore, utilized for the Petroleum petition filed October 10.<sup>1</sup> Finally, the respondent pointed out, the county's assessment value had been determined by utilizing an oil royalty of 100 cents on the dollar. In support of their contention that only a 40 cent royalty should have been utilized, Campbell stated:

In this total value of \$4,213,975.00 Petroleum county's assessed valuation after deduction of the \$369,867.00, Valentine withdrawal was included a royalty valuation of \$1,750,823.00 (Tr. p. 31). Of this the sum of \$1,306,542.00 represents the value of net proceeds of mines situate within the proposed boundaries of said proposed county of Petroleum, received by certain persons, firms and corporations between the 1st day of June, 1921, and the first day of June, 1922 and the sum of \$44,383.00 represents oil royalties and not net proceeds of mines situated within the proposed boundaries of said proposed County of Petroleum.<sup>2</sup>

Correct assessment based on royalties of 40 cents on the dollar thus would have reduced the valuation of Petroleum county below that required by law.

Attorney Weidman presented the case of the appellant county clerk, James L. Martin. His brief centered on two basic arguments: (1) that the applicant had no right to a writ of injunction, or even a temporary restraining order, and (2) that nearly all wrongful acts charged by the respondent were ". . . entirely collateral to this proceeding . . .," dealing as they did with methods of actions of county commissioners and the state board of equalization.<sup>3</sup>

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<sup>1</sup>Brief for Respondent, p. 5, Garry v. Martin, 70 Mont. 587, 227 Pac. 573 (1924), pp. 28-30.

<sup>2</sup>Ibid., p. 32.

<sup>3</sup>Brief of Appellant, p. 12, Garry v. Martin, 70 Mont. 587, 227 Pac. 573 (1924).

The appellant urged that the respondent in his individual capacity was not a proper party to the action and thus not entitled to even a temporary restraining order. He could show no wrong committed against him, and was not entitled to the restraining order. Furthermore, the State, rather than an individual, should be the proper party to the action. The creation of a county being a political act, the sovereign prerogative for questioning the proceedings of such creation would obtain to the State.<sup>1</sup>

In support of the second argument--that the respondent charged wrongful acts which were collateral to the proceedings--the appellant's attorneys alleged that the complaint dealt largely with acts over which the appellant had no control. Hence, the appellant could not be chargeable for such acts. In determining the assessed valuation, the county commissioners used the 1922 assessment because the 1923 assessment had not been completed. Indeed, the assessment of railroads, telegraph and telephone lines and net proceeds of mines was not certified to the County Clerk and Recorder until after the date of petition. The commissioners thus used the only available assessment.<sup>2</sup> Moreover, the appellant argued, the respondents had incorrectly concluded that such oil royalties should not be subject to taxation. Since tangible personal property is taxable at the place of oil production.<sup>3</sup> Finally, the attorneys urged that published notice of the hearing complied with the law. They cited Smith v. Collis, 42 Mont. 359 (1910) that four publications of one in

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<sup>1</sup>Brief of Appellant, pp. 5-8, Garry v. Martin, 70 Mont. 587, 227 Pac. 573 (1924).

<sup>2</sup>Ibid., pp. 13-16.

<sup>3</sup>Ibid., pp. 16-19.

each of four successive weeks meant that publication must occur four times, once in each of the successive weeks. In State ex. rel. Stevens v. McLeish, 59 Mont. 527 (1921), the court declared notice once a week for two weeks prior to hearing date meant fourteen days before the hearing date.<sup>1</sup> Therefore, publication according to statutory definition of a week as seven consecutive days, had been made in the Petroleum issue. Publication of the hearing date appeared in both papers during each calendar week preceding the hearing--in the week beginning the 24th of October and in that beginning the 31st of October. Publication thus complied with the statute.<sup>2</sup>

Chief Justice Callaway of the Montana Supreme Court delivered the opinion which upheld the district court award of the permanent injunction. Sustaining respondent Garry, the court held that any tax-paying citizen could invoke the aid of a court of equity to prevent the holding of a special election where the board of county commissioners in calling such election acted in excess of its jurisdiction.<sup>3</sup> Injunction could be sought (1) where the subject matter affects the public as in an illegal expenditure of funds, (2) where the object is proper execution of laws or to confine tribunals to their legal jurisdiction or, (3) to prevent a transgression of authority of such tribunals.<sup>4</sup>

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<sup>1</sup>Brief of Appellant, p. 23, Garry v. Martin, 70 Mont. 587, 227 Pac. 573 (1924).

<sup>2</sup>Ibid., pp. 23-24.

<sup>3</sup>Garry v. Martin, County Clerk, 70 Mont. 587, 227 Pac. 573 (1924).

<sup>4</sup>Ibid.



The court upheld the contention of the plaintiff that publication of the hearing was insufficient. Chief Justice Callaway held that the word "for" in the requirement that publication must be made at least once a week for a period next preceding the date actually meant "through-out" or "during the continuance of" the prescribed period. Therefore, publication "at least once a week for two weeks next preceding the date . . ." meant fourteen days. Publication of notice by the Winnett Times for twelve days and by the Fergus County Argus for thirteen did not give two full week's notice; here the weekly papers should have published the date of hearing three times.<sup>1</sup>

The court upheld the appellant's use of the 1922 assessment figures, however. By an act of the Eighteenth Legislature on March 7, 1923, the date for the completion of the assessment rolls had been changed from the first Monday of October to the third Monday of October.<sup>2</sup> The 1923 assessment was not yet completed at date of filing. The Supreme Court thus upheld the action of the county commissioners in their use of the 1922 assessment.

Thus, the second attempt to create Petroleum County by petition and election came to an end in the Supreme Court, as had the first. The unsuccessful endeavors to create a county from eastern Fergus now included four legislative attempts and two petition and election movements as well as two district court cases and two Supreme Court appeals. Little had been attained. One could expect perhaps that the divisionists would

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<sup>1</sup>Garry v. Martin, County Clerk, 70 Mont. 587, 227 Pac. 573 (1924).

<sup>2</sup>Ibid.

consider the effort futile after such a history of failure. Such was not the case.

That the divisionists intended yet to continue their fight was at once apparent. Crying that "neither the courts, the Lewistown politicians nor the Standard Oil Compnay can obliterate the Petroleum county issue,"<sup>1</sup> the proponents of the new county prepared still a third movement. Indeed, the circulations of petitions had already begun before the Garry v. Martin case entered the Supreme Court in May, 1924. Within a week, over 65 per cent of the voters of eastern Fergus signed the third petition. Since the law required signatures of but 58 per cent of the voters of the district, the petition was ready for filing almost immediately. The Times reported that practically no campaign had been necessary to obtain signatures; instead of a formal canvass by the committee, farmers circulated petitions to their neighbors and obtained the requisite signatures easily.<sup>2</sup>

In reality, the campaign required slightly more organization than the Winnett paper implied. As far back as January, 1924, a committee comprised of Winnett citizens--Mudd, Woods, Dugan, Doherty and Weidman--met to plan the financing of the Supreme Court appeal, and at the same time,

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<sup>1</sup>The Winnett Times, June 13, 1924.

<sup>2</sup>The Winnett Times, May 9, 1924. In a February 29, 1924 issue, the editor described the reception given to the divisionists in preparing the third campaign. It was, he alleged, nearly unanimous. In reviewing the history he stated that "in both former attempts they (taxpayers of eastern Fergus) were forbidden their right of franchise by legal technicalities, the first time by the juggling of registration cards and the second time by the injunction. The rank injustices dealt the advocates of county division have swelled the ranks of advocates until at this time practically every man, woman and child in the proposed new county is not only in favor of county division but is a willing fighter in the ranks."

to draw the lines of the proposed county. And, although less canvassing was done, the committee nevertheless arranged a series of county division dances to be held throughout the county in the months ahead.<sup>1</sup>

Petroleum County now would include an assessed valuation of \$6,016,973.<sup>2</sup> Its area included more territory than in the county of the second proposal after the exclusions had been granted. Thus, the county would incorporate all territory

beginning at the north at a point on the Missouri river in the center of range 26; thence south to township line between township 21 and 20; thence one mile west; thence south to the township line between ranges 24 and 23; thence south to township line between townships 16 and 15; thence east to range line between ranges 24 and 25; thence south to township line between townships 13 and 12, jogs west one mile; thence south to Musselshell county line.<sup>3</sup>

When the petition was filed on June 28, it contained the signatures of 73 8/10 per cent of those voters of eastern Fergus who had voted in the previous general election.<sup>4</sup> The proposed boundaries of the county incorporated 1,634 square miles while leaving over 4,000 square miles in Fergus.<sup>5</sup> As previously before excluded by petition, this new county would enclude the towns of Teigen and Valentine. The petition stipulated that forty-four townships and eleven fractional townships--or about ten townships more than in the previous proposal would be included in the proposed Petroleum County.<sup>6</sup>

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<sup>1</sup>The Winnett Times, January, January 25, 1924; and February 1, 1924.

<sup>2</sup>The Winnett Times, February 8, 1924.      <sup>3</sup>Ibid.

<sup>4</sup>The Winnett Times, July 4, 1924.

<sup>5</sup>Ibid., citing Lewistown Democrat-News, n.d., n.p.

<sup>6</sup>Ibid.

The date set for the hearing was July 25.<sup>1</sup> In announcing this date, the Winnett Times speculated that the opposition would again arise from the oil companies. "It is presumed," thought the editorial, "that the Mid-Northern Oil Company will again take up the cudgel to defeat the movement. The Mutual and California companies agree to leave the matter to the discretion of the voters."<sup>2</sup> Contrary to expectations, however, the hearing produced no overt opposition from the oil companies. The only outspoken opponents appearing were Attorney C. J. Marshall and Mr. Toney Weigart of the Myers precinct. Marshall said he represented himself as an elector and Fergus taxpayer and opposed the calling of the election.<sup>3</sup>

In spite of Marshall's opposition, the county commissioners granted the petition. They named the general election date, November 4, 1924, as the date for the special Petroleum election. At the same time, the commissioners denied one exclusion petition and accepted another. A petition containing 33 signatures and asking for the exclusion of 2 3/4 townships in northwest Fergus and the Valentine post office had been filed by a Mr. Neil Harris of Valentine. Harris' petition was granted but the Weigart-Ashley exclusion was denied on the grounds of insufficiency.<sup>4</sup>

Five days before the November 4 election, the Winnett Times predicted that the county would go over with 95 to 98 per cent of the vote. It also

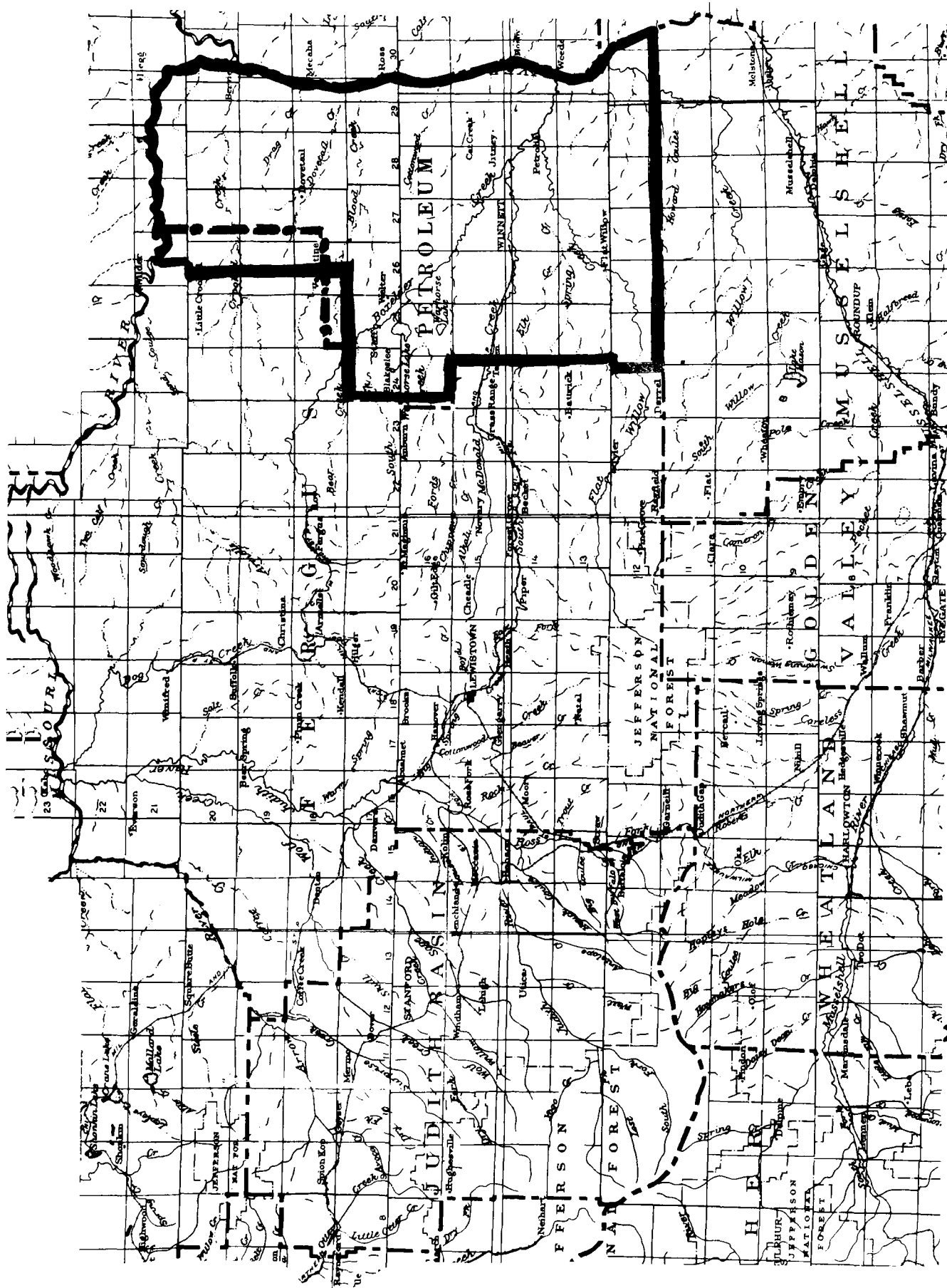
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<sup>1</sup>In order to comply with the recent Supreme Court ruling that a weekly would need to publish the date of hearing three times, the Winnett Times (and the Lewistown Democrat-News, a daily) announced publication on July 4, 11, and 18. The Fergus County Argus published the date on three successive Thursdays. (Ibid.).

<sup>2</sup>Ibid.

<sup>3</sup>The Winnett Times, August 1, 1924.

<sup>4</sup>Ibid.



MAP 13.-- Proposed Petroleum County in final petition campaign  
and final boundaries after exclusion of the Valentine area.

made one final appeal to the voters of eastern Fergus: "Make the finish of the three year battle for self-government and the handling of our own tax money ring thru (sic) the state as the most glorious victory ever won by the advocates of freedom and justice."<sup>1</sup> Evidently the voters heeded the appeal. On November 4, 1924 they created Petroleum County with a vote of 891 for, 235 against (77 per cent of the total vote cast). Winnett, unopposed for the county seat, received more than 80 per cent of the vote.<sup>2</sup>

The opposition which undoubtedly existed lay dormant except for casting a ballot. The areas voting heavily "no" were those whose petitions for exclusion had been denied. Thus, Meyers, Teigen, and Ashley voted 10-0, 23-13, and 21-29 against, respectively.<sup>3</sup> Except for 51 "noes" to 67 "for" cast in Cat Creek, the anticipated opposition did not develop from the oil companies. Indeed, in letters written just prior to the election, the Mutual Oil Company, the California Comapny, and more significantly, the Mid-Northern Company had expressed intentions to leave the division question to the voters.<sup>4</sup>

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<sup>1</sup>The Winnett Times, October 31, 1924.

<sup>2</sup>The Winnett Times, November 7, 1924.

<sup>3</sup>The Winnett Times, November 28, 1924.

<sup>4</sup>The Winnett Times, November 14, 1924. Donald Campbell, the attorney for the Mid-Northern who had carried their fight to the Supreme Court wrote to Mr. H. A. Stenson on October 23, as follows:

"The matter of the creation of the proposed new county of Petroleum has been fully considered and discussed by the various offices of the Mid-Northern Oil Company, and as a result of this discussion I am authorized and directed to advise you and your committee that the Mid-Northern Oil Co., will no longer attempt to prevent the creation of this county, and will not place any obstacle in the path of its creation.

"The officers are unanimous in their position which they have now

Thus, after a campaign beginning early in 1919, the proponents of a county to be created from eastern Fergus achieved their goal. Petroleum County emerged as the last of Montana's fifty-six counties. The Winnett Times, now the official organ as well as the self-appointed tribune of the new county summarized the campaign:

The right to vote on the Petroleum county issue is the result of three separate petitions, circulated and filed at three different times during the past three years. The first petition, which was circulated and handled thru Dan McKay was filed with 69 percent of the qualified electors. This petition was thrown out by the county commissioners as insufficient. The second petition circulated and handled by the Winnett Chamber of Commerce, aided by many farmers thruout the proposed county, was filed with 71 percent of the qualified electors. This petition obtained the calling of an election by the county commissioners but a successful injunction killed the issue before it was brought to a vote of the people. The third and last petition contained 75 percent of the qualified electors and brought the election. . . .<sup>1</sup>

On the same ballot which created the new county of Petroleum, the officers of the county were designated. The official returns, which listed the results and named the successful candidates, designated no party affiliations, however. Evidently the county proponents had wished to consolidate all efforts toward the successful creation of the county and hence sought to eliminate the conflict which might arise by stressing partisan politics in the elections. As a result, the official returns indicated the following results:<sup>2</sup>

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adopted and desire me to express to you our good wishes. We will not make any effort to in any manner influence the election and in the future will use our best endeavors to co-operate with you at all times. We greatly appreciate the spirit in which you have met us and have absolute confidence in your sincerity." (Letter from Donald Campbell, Secretary-Counsel of Mid-Northern Oil Co., Billings, Mont. to Mr. H. A. Stenson, Winnett, Mont., dated October 22, 1924, cited in The Winnett Times, November 14, 1924).

<sup>1</sup>The Winnett Times, October 31, 1924.

<sup>2</sup>The Winnett Times, November 7, 1924.

TABLE 4

OFFICIAL ELECTION RETURNS OF PETROLEUM COUNTY  
SPECIAL ELECTION, NOVEMBER 4, 1924<sup>1</sup>

Precinct	For Petroleum County		For Winnett for County Seat (unopposed)
	"Yes"	"No"	
So. Valentine	46	2	44
Plainview	9	3	11
Winnett	445	37	442
Weston	5	4	4
Weede	26	3	26
Teigen	13	23	16
Nordquist	1	23	4
Myers		10	
Leslie	40	8	42
Kelley	30	6	30
Hoyle	24	8	27
Frantz	66	51	91
Flatwillow	99	19	108
Dovetail	24	5	26
Blakeslee	35	9	28
Ashley	29	21	27
Total	892	232	926



County Commissioner (6 yr. term): J. W. Beck, 465; Harry J. Knapp, 292; Horace E. McGiboney, 200; C. L. Young, 68.

County Commissioner (4 yr. term): Robert P. Hays, 937.

County Commissioner (2 yr. term): George A. Burr, 567; W. D. Killian, 71; C. E. Read, 184; Fred J. Welich, 200.

Clerk and Recorder: Arthur J. Dunn, 271; Elden Freed, 254; Robert F. Hogg, 265; Ella V. Milsap, 275.

County Sheriff: Perry Baker, 505; S. H. Bishop, 19; Clyde Luke, 93; Edward M. Nave, 154; W. A. Swift, 295.

County Treasurer: W. F. Kindt, 630; D. Y. Wilson, Sr., 372.

County Assessor: K. E. Park, 617; C. M. Branch, 360.

Clerk of District Court: Ida S. Rigg, 761; William F. Smith, 291.

County Superintendant of Schools: Dorothy Bowen, 462; Amanda Swift, 691.

County Attorney: Ethel S. Abbott, 212; Nick Langshausen, 463; R. H. Weidman, 369.

County Surveyor: Edward S. Parkinson, 402; John W. Woods, 600.

State Representative: Lincoln W. Hamilton, 230; L. A. Kragrud, 297; R. J. Woods, 537.

State Senator: F. C. Bennett, 355; Guy Schellenger, 385; A. B. Whitcomb, 211.

In accordance with Sec. 4395, Rev. Codes Mont. (1921), Petroleum County became a legal subdivision of the state ninety days after the county commissioners filed a resolution with the Secretary of State. Thus, on February 24, 1924, the County of Petroleum began to function. Its state senator and representative took their official places in the legislative assembly of Montana. The county commissioners let the contract for the printing of the books and other county printing. Editor Doherty of the Winnett Times, the inexhaustible champion of the division

campaigns, received the contract.<sup>1</sup>

On December 14, the county commissioners reached an agreement with Mr. Elmer Eager of Winnett to rent his Mercantile Company store building for a temporary court house. According to the Times report, the building was conveniently located and utilitarian in that little would have to be done on it. Eager leased the building and its lot for \$150.00 per month.<sup>2</sup> Contracts for court house furniture and fixtures were let to a Billings company for \$2,741.45.<sup>3</sup> The contract for furniture, however, caused protest from about 100 Petroleum citizens who felt that the court house should use second-hand furniture rather than new. A protest petition was filed with the county commissioners, but to no avail. The Winnett Times closed the issue by affirming that ". . . it is generally agreed--by people who know anything about furniture--that second hand furniture could not be purchased and installed for the price given on the new."<sup>4</sup> Other expenses included one for remodeling the court house at \$1526, hiring a janitor for \$100 a month, and a contract for transcribing the records pertaining to roads for \$7.00 per day.<sup>5</sup>

Soon after these contracts had been let, editor Doherty, who had championed the formation of the new county because it would give eastern Fergus economical government, became embroiled with the commissioners over the publication of their proceedings in his paper. The commissioners

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<sup>1</sup>The Winnett Times, December 12, 1924. The amount of the contract was not specified in the Times.

<sup>2</sup>The Winnett Times, December 19, 1924.

<sup>3</sup>The Winnett Times, January 9, 1925. <sup>4</sup>Ibid.

<sup>5</sup>The Winnett Times, January 30, 1925.

wished to publicize their proceedings by posting them. Doherty initiated an editorial campaign to encourage their publication at a quarter's cost of \$225. Contending that posted proceedings would not be read, and that furthermore, "commissioners of the future may take advantage of the lack of publicity of their proceedings and not conduct themselves as they would were they assured that all the taxpayers are scanning their proceedings," Doherty urged that the taxpayers demand such publication.<sup>1</sup> The cost would be little, according to the editor.

At the last general election there were 1623 qualified electors. Distributing this cost over the electors, which is a fair basis to work upon, makes a cost of 13 cents and a fraction for each elector for three months continuous proceedings or 4 1/3 cents per month in round numbers.<sup>2</sup>

Hence, even after creation, Petroleum County encountered obstacles during its organizational period.

Why was the campaign to create Petroleum County so tortuous and oft-delayed? Scrutiny of the legislative and petition campaigns has disclosed some of the answers. But the broader economic, social and political issues underlying these events must not be reconsidered in the context of these campaigns.

Even as economic, geographic and cultural factors combined elsewhere in demands for new counties, these issues came to bear in the contest over creation of a new county in eastern Fergus.

In eastern Fergus County, the issue of longest duration was that of accessibility. The area was said to be virtually isolated from western Fergus. Winnett, the proposed county seat of Petroleum county was over

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<sup>1</sup>The Winnett Times, March 6, 1925.

<sup>2</sup>Ibid.

fifty miles from Lewistown, the county seat of Fergus. Even more important, the Cat Creek oil fields discovered in 1920 lay eighty miles from the Fergus County court house.<sup>1</sup> Accessibility to the oil fields and agriculture of eastern Fergus was hampered by poor roads or no roads at all. And since the railroad did not reach Winnett until 1917, all transportation prior to that time had to move on the wagon roads.

Although Fergus in 1919 contained 5,500 miles of roads, more, according to the Judith Basin Farmer, than any other county,<sup>2</sup> the residents of eastern Fergus alleged that their section had been almost entirely neglected. In 1919, the Winnett Chamber of Commerce sent committees to the county board to "beseech" road work, but reportedly met with little success.<sup>3</sup> "The thousands and thousands of dollars spent monthly by the county commissioners for roads, highways and bridges never seems to find its way into the eastern portion of the county."<sup>4</sup> Only one action would remedy the situation. To receive an equitable share of the road work, eastern Fergus must have its own County of Petroleum to disperse the road money within their area. This argument took many forms in the years before the county was created. It also became increasingly vehement. But the basic thought changed little: "We must arrange an even break . . . . Why always be the underling? Why always take the leavings? Why jolt your

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<sup>1</sup>The Winnett Times, August 26, 1921.

<sup>2</sup>The Judith Basin Farmer, December 4, 1919.

<sup>3</sup>The Winnett Times, July 8, 1921. The point was disputed, of course, by the Lewistown residents. The Fergus County Argus (September 30, 1921) claimed that rather than being neglected, eastern Fergus had received more road work money than they had paid.

<sup>4</sup>The Winnett Times, July 8, 1921.

spinal column loose over roads when you are paying an enormous road tax?"<sup>1</sup>

As the number of automobiles increased, the demand for better roads in eastern Fergus grew proportionately. The Times reported that the situation had reached the crisis stage. "This road condition is getting more serious every day and nothing to better the situation. The travel by motor car is increasing and the truck traffic is getting enormous."<sup>2</sup> Yet, claimed the Petroleum County advocates, Fergus County had remedied the road taxes which were spent by the old county to build ". . . good roads around the county seat at Lewistown . . . (while) neglecting all the more remote districts of the county."<sup>3</sup>

All economic groups were entreated to recognize the economic benefits that would accrue to them if Petroleum County were created. Progress in all areas was being inhibited by lack of roads, appealed the divisionists. One of the more convincing statements of this issue appeared in the Winnett Times:

"It is becoming more and more apparent each day that Eastern Fergus county is not receiving the prominence that it deserves, with disastrous results upon the development of one of the richest sections of the entire Northwest. Surely no section has so many varied and meritorious resources which is still in the frontier stage, laying virtually dormant from lack of power to properly progress.

"Winnett is far from being dependent on oil, even though we have the greatest producing oil field in all the Northwest.

"Our agricultural country, both dry and irrigated, is unsurpassed and greater efforts should be put forth to develop it.

"Those who have taken the initiative in attempts toward progress have always run into a "stone wall." They find it difficult to develop a farming community with the lack of roads and bridges, coupled with a pernicious effort being constantly applied to hinder progress in every way possible by the man power in the western portion of the county."<sup>4</sup>

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<sup>1</sup>The Winnett Times, July 1, 1921.

<sup>2</sup>The Winnett Times, Aug. 5, 1921.

<sup>3</sup>Ibid.

<sup>4</sup>The Winnett Times, July 1, 1921.

To the farmers, the proponents appealed by asking, "Are the farmers of Fergus still anxious to contribute their road money for the building of good roads out to Denton, over to Moore and Garneili? (sic)"<sup>1</sup> What tax-paying farmer would reply affirmatively? The value of good roads to them was inestimable. In one month in 1924, for example, 200,000 bushels of wheat were marketed in Winnett after being transported by truck to the center.<sup>2</sup> Good roads and the advent of the truck enabled farmers to transport crops greater distances and in quicker time.

Perhaps even more forceful than the appeal to the farmers for good roads was that made to those interested in increased development of the oil industry. The oil industry in eastern Fergus had become a significant one within its first year. Citizens of eastern Fergus did not wish to lose the benefits of its further development because poor roads hindered marketing. The Petroleum County advocates pointed out that "this unjust treatment of the road question is sure to retard the oil development of Petroleum county."<sup>3</sup> Those interested in preventing such retardation concurred that a new county was needed ". . . now more than at any other time in eastern Fergus . . . ."<sup>4</sup>

Let there be no halt in this oil development. This being the only proven field in the state there should be a splendid highway

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<sup>1</sup>The Winnett Times, August 12, 1921.

<sup>2</sup>The Winnett Times, November 14, 1924.

<sup>3</sup>The Winnett Times, August 12, 1921.

<sup>4</sup>Ibid. One year later, in July, 1922, the Times reported that the roads to Cat Creek had not yet been improved by Fergus County. On the contrary, the roads seemed in extraordinarily good shape anyway, because "the oil companies did the work at their own expense." (The Winnett Times, July 7, 1922).

laid out to the Cat Creek field and the bridges should be put in the best of repair. All the heavy truck traffic demands that this highway should be of the best and the city of Winnett should take a leading part in the development as the world knows this to be the gate city to the oil fields.<sup>1</sup>

This statement alludes to yet another problem resulting from the poor roads. Winnett, as the "gate city to the oil fields" should be receiving greatly increased trade from the development. But poor roads frequently prevented such trade. Therefore, in an appeal to the businessmen of eastern Fergus, the advocates stated that Petroleum County could remedy the situation with better roads. Distances would be no inhibiting factor if roads were passable. The Times pointed out that Winnett had a territory at least fifty miles to the north and to the east from which to draw trade, but this immense trading potential had not been realized.

The immense loss of valuable trade is going to other towns because the people (sic) cannot get to their nearest city, Winnett, on account of the roads. The fault is not wholly ours, we being unfortunate enough to belong to a county which has continued for a score of years to take the tax money from one part of the county and build the best roads and bridges money can buy for another part. A new county will solve the difficulty but in the mean time the business men of this town are losing a good many thousand dollars every month because people cannot get to this town.<sup>2</sup>

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<sup>1</sup>The Winnett Times, August 12, 1921. One year later, in July, 1922, the Times reported that the roads to Cat Creek had not yet been improved by Fergus County. On the contrary, the roads seemed in extraordinary good shape anyway, because "the oil companies did the work at their own expense." (The Winnett Times, July 7, 1922).

<sup>2</sup>The Winnett Times, October 7, 1921. Like the farmers, the businessmen took steps themselves to better the road conditions in eastern Fergus and thus prevent some drain-off of trade. At one point, the Winnett Commercial Club, headed by a committee of Tom Carr, R. J. Woods and A. W. Ogg, arranged to finance and build a road north from Winnett into the farming country. Money was gathered by donations from club members. One member, R. J. Woods, contributed \$100,000 alone. To assist the Commercial Club, many farmers of the northern area offered teams and labor. (The Winnett Times, October 21, 1921). In still another instance businessmen of the area helped farmers build a road into the Valentine area. One entire ridge was cut down and the road graded as well. (The Winnett Times, November 4, 1921).

Other arguments for a County of Petroleum to build roads and make the area accessible were cited as well. Population influx to eastern Fergus would be promoted, it was asserted. In 1921, the paper stated that the railroads planned a new campaign to bring settlers to Montana from eastern states;<sup>1</sup> good roads into eastern Fergus would induce many to settle there. Prospective tourists and settlers would no longer consider eastern Fergus "no man's land" and hesitate to travel east of the county seat.<sup>2</sup>

That distance to the county seat and poor roads also contributed to a lack of law and order was another allegation. In an editorial entitled "Thieves' Mecca," the Winnett Times reported the stealing of horses, cattle, grain, and household goods in eastern and northeastern Fergus.<sup>3</sup> The Valentine News affirmed such thievery and suggested a new county would remedy the situation by closer location of a center of government. "Because of the great distance to the seat of government and the expense to themselves of getting the information filed before the proper authorities, petty thievery has been and is now going on with impunity knowing they have little fear."<sup>4</sup>

The road and its implications were summed up by the divisionist Winnett Times during the heat of the last unsuccessful campaign:

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<sup>1</sup>The Winnett Times, October 21, 1921.

<sup>2</sup>The Winnett Times, July 1, 1921.

<sup>3</sup>The Winnett Times, October 28, 1921.

<sup>4</sup>The Winnett Times, September 30, 1921, quoting The Valentine News, n.d., n.p.



"It is a undisputable (sic) fact that good roads are worth money in proportion to the service they render in enabling the traveling public to reach their point of destination.

"Everything you eat, wear, live in, buy, sell or play with at some stage of its distribution has to be hauled over roads.

"They have to stand harder wear than anything else you use (sic) that's why you should demand more good roads. Good roads mean better business and lower prices. Poor roads increase transportation expense, both in time and money; hence, higher prices. The revenue that should be brought in the state by tourists alone would amount to millions of dollars and good roads are an incentive necessary to bring it.

"Road building vitally concerns each and every tax payer and automobile owner.<sup>1</sup>

("Moreover) there has never been any effort made by the county to better the road condition out to that great oil field--and yet Lewistown is willing to share in the great prosperity arising from the development. And what are we now compelled to do? Other than to create a new unit of our own to apply our own money in making a fine public highway to the oil field that the development of Petroleum County is worth all the efforts put forth to improve the roads and bridges and shorten the distance to the oil fields has no contradiction. It is certain now that it can only be accomplished by the creation of a new county."<sup>2</sup>

Anti-divisionists emphatically denied the arguments that the county seat had neglected to build roads in eastern Fergus. Throughout the various campaigns the Lewistown residents retorted that the few funds available for road building had been distributed to all sections of the county equally. When the first legislative campaign to segregate eastern Fergus began in 1919, anti-divisionists published statements that in 1918, \$125,000.00 was available for road building in Fergus County. If the amount could be distributed equally over 5,500 miles of road, "it would amount to approximately \$23.00 per mile per year to construct and maintain roads . . . ." <sup>3</sup> To install one serviceable wooden culvert would

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<sup>1</sup>The Winnett Times, April 22, 1921.

<sup>2</sup>The Winnett Times, August 5, 1921.

<sup>3</sup>The Judith Basin Farmer, December 4, 1919.

cost \$55.00. Therefore,

to install 5,500 culverts (one for each mile of road) it would require more than the total of all taxes paid into the road fund for more than two years, and an eighteen-inch concrete or corrugated culvert twenty-four feet long would cost installed at \$75.00 which would consume more than three years road tax revenue. Mind you, we wouldn't be able to do any other road work, such as drag roads, repair culverts or new construction work.<sup>1</sup>

As the years progressed and the indignation over the roads of the eastern section of the county was more loudly articulated in the campaigns, the anti-divisionists in Lewistown began asserting that eastern Fergus received not only its share of road money but more than its share. In late 1921 the Argus expressed this point of view and denounced the divisionists' claims. The county surveyor, stated the article, revealed that over \$35,000 of county road money of the general fund had been spent in Winnett during 1920 and 1921. Yet, the revenue derived from the new county area during the same period totalled less than \$18,000.<sup>2</sup> Concerning a claim that no part of the highway bond fund found its way into eastern Fergus, the Lewistown faction disclosed more figures to disprove the claim. A highway from Forest Grove through Grass Range and eastward to the Musselshell County line received \$142,000. In the Roy-Valentine area the sum spent was approximately \$15,000.<sup>3</sup> The eastern section of the county had hardly been neglected, contended the anti-divisionists.

During the last campaign the claims of the anti-divisionists with reference to the road situation remained substantially the same. Although

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<sup>1</sup>The Judith Basin Farmer, December 4, 1919.

<sup>2</sup>Fergus County Argus, September 30, 1921.

<sup>3</sup>Ibid.

the divisionists asserted that Lewistown received untold wealth from the Cat Creek oil field but didn't return it in the form of good roads, anti-divisionists replied somewhat vindictively:

. . . considerably more was spent for roads and other purposes than received from that territory in taxes. Up to the present time this territory is rather a liability to Fergus county and the latter would be better off without it. That is speaking rather frankly but no other conclusion is warranted by the facts as they are disclosed upon investigation.<sup>1</sup>

Did this statement imply that Lewistown applauded the aims of eastern Fergus to create Petroleum County? By no means. The anti-divisionists continued to disclaim the road accusations of the proposed county. The road situation had been exaggerated. Eastern Fergus garnered its share of road construction.

Thus, the road issue figured significantly in the numerous campaigns to create Petroleum County. But it was by no means the sole issue of importance in the campaigns. Taxation in Fergus County claimed much attention as well. Like the road argument, the issue of taxation endured from the earliest campaign attempts throughout the successful creation in November, 1924.

During the first legislative campaign in 1919, those advocating a new county in eastern Fergus said little about the problem of taxation. After all, the economic situation resulting from the previous years of drought was somewhat uncertain. Thus, the divisionists for the most part did not raise taxation as an issue. The anti-divisionists, however, capitalized on the economically depressed agricultural area of eastern

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<sup>1</sup>The Fergus County Argus, September 30, 1921.

Fergus. Their claims of economic crisis undoubtedly contributed to the failure of the legislature to create the county. From the county seat and other western Fergus regions came cries that division at such a time could lead only to bankruptcy. Indeed, admitted the Lewistown citizens, although division was probably inevitable, to divide at such an inopportune time would be foolish.<sup>1</sup>

Evidently those in eastern Fergus, as well as in the western sections, recognized the tax problem they would face in a new county created in 1919. Farmers and businessmen of Winnett, Flatwillow, Jitney, Mosby, and Valentine discussed the subject at a meeting of the Eastern Fergus Boosters' Club. At that time, the club members concurred that the crop failure would have a negative effect upon taxable valuation. As a result of the discussion, they concluded, "Crops for the past two years have been almost total failure and no one thought it wise to cut away from the mother county at this crucial time."<sup>2</sup> Yet, in spite of agreement that tax debts and agricultural depression made division unwise, the boosters believed future development would make the proposed county solvent. They expected extensive development of the oil industry in eastern Fergus and worried that if division were not accomplished before that time, Lewistown would be unwilling to let the section go.<sup>3</sup> With such fears, the divisionists ignored the current tax problem and continued to promote a new county.

By the start of the legislative and petition and election campaigns

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<sup>1</sup>The Judith Basin Farmer, December 25, 1919.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.

in 1921, the issue of taxation had become one of primary interest and conflict. Divisionists based claims of tax injustice on one basic issue; while the county taxes of Fergus had increased steadily for the previous ten years, at the same time (they alleged) the indebtedness of Fergus soared to nearly two million dollars.<sup>1</sup> Such "exorbitant" taxes they felt would eventually "tax them out of existence." Citizens throughout Fergus County--both in east and west sections--reportedly denounced the tax increases. The indignation of taxpayers provided a spark which, in the months of the campaign, was continually fanned by the divisionists. They argued that the only possible relief from the taxes of a cumbersome county unit would be to divide and thereby obtain a smaller, more economical unit. This argument, particularly as voiced by the Winnett Times, was forceful, appealing and frequently embittered:

"The burden of taxation has become so heavy that the crushed taxpayers in the west end have rebelled and are taking practically the only means possible to promote reforms in taxation. They have organized a Taxpayers Association and at their recent meetings made violent denunciations of the exorbitant taxes and pointed out with unerring finger the gross extravagance of the present county administrators and demanded that a drastic reduction in the expanse of running the county be immediately put into effect.

"The east end has the only possible everlasting remedy and that is county division."<sup>2</sup>

On still another occasion the editor entreated eastern Fergus residents to divide by implying that the Taxpayers Associations could provide no permanent remedy of the tax situation. He declared that in a county of their origin "corruption is so deep-seated that robbing the public has

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<sup>1</sup>The Winnett Times, November 18, 1921.

<sup>2</sup>The Winnett Times, December 2, 1921.

become a mere past-time for the belligerent office holders;" only county division would free the residents from the grasp of "old county corruption."<sup>1</sup>

Supporting the contentions that a new, smaller county would invariably provide savings for the taxpayer was the county promoter himself, Mr. Daniel McKay. In his handling of the first petition campaign, McKay constantly stressed the point. As a second-class county, stated McKay, Fergus County cost more to run and thus was more burdened by taxation than a smaller sixth or seventh class county.<sup>2</sup> McKay reinforced his position in an

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<sup>1</sup>The Winnett Times, December 16, 1921.

<sup>2</sup>The Winnett Times, August 19, 1921. The basis for this argument stemmed in part from sec. 4725, R C M 1921 which enumerated the officers of a county and stipulated that sixth, seventh and eighth class counties would have no county auditor. Section 4867, R C M 1921 provided for the salaries of county officers to be paid according to the various county classifications. A treasurer, for example, received \$3,500 in a 1st class county, \$3,000 in a 2nd or 3rd class county, \$2,500 in a 4th or 5th class county, \$2,000 in a 6th class county and \$1,800 in a 7th class county. The salaries of the other officers (with the exception of the county auditor) varied in relation to the classification of the county in the same manner that the treasurer's salary did. Thus the salary of the county clerk, clerk of district court, sheriff, county attorney, surveyor, coroner, public administrator, assessor, county superintendant and county commissioners was gradually reduced with a reduced classification. The salary of a sheriff in a first class county, (to provide another example) was \$4,500, while in a sixth class county it would be \$2,250 and in a seventh class county, \$2,000. In addition, section 4875 stipulated the number of deputies which each of the various counties might have. Counties of the first and second classes could not exceed six deputies; counties of the third class, three; counties of the fourth and fifth classifications, two; and counties of the sixth and seventh, one.

However, while it was true that these counties had fewer and lower paid officers, it was also true that the assessed valuations (or ability to pay taxes) were also lower than in the higher classified counties. Section 4741, R C M 1921 enumerated the following classification of counties for the purpose of regulating the compensation and salaries of all county officers. The classification, made according to that percentage of the true and full valuation of the property therein upon which the tax levy was made, was as follows:

"First class. All counties having such a taxable valuation of fifty

article entitled "What Raises Taxes of Fergus County" which he wrote for the Winnett newspaper. In the article, McKay attributed the increase to the cutting away of Judith Basin County which had been paying "50 percent more than her share" of taxes before division. The separation of Petroleum, however, would benefit both the new residents in the seventh-class county and those remaining in Fergus. The Fergus County officials would feel the loss of the newly discovered oil fields and pipe lines and would be forced to reduce the class of the old county. Meanwhile residents of Petroleum would experience tax relief through lower tax levies.<sup>1</sup>

McKay's arguments were largely stock arguments which he had presented in his previous promotional activities. Yet they convinced many resident taxpayers. They believed the documented arguments that the cost of running the county would lessen, that officials would receive salaries of almost half that received by their counterparts in the bigger county. Reported the Times, an officer such as the treasurer of Petroleum County would receive \$1,800, whereas the treasurer of Fergus drew \$3,000.<sup>2</sup>

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millions of dollars or over;

"Second class. All counties having such a taxable valuation of more than thirty millions and less than fifty millions of dollars.

"Third class. All counties having such a taxable valuation of more than twenty millions and less than thirty millions of dollars;

"Fourth class. All counties having such a taxable valuation of more than fifteen millions and less than twenty millions of dollars;

"Fifth class. All counties having such a taxable valuation of more than ten millions and less than fifteen millions of dollars;

"Sixth class. All counties having such a taxable valuation of more than five millions and less than ten millions of dollars;

"Seventh class. All counties having such a taxable valuation of less than five millions of dollars . . . ."

<sup>1</sup>The Winnett Times, November 4, 1921; and August 19, 1921.

<sup>2</sup>The Winnett Times, October 14, 1921.

Finally, the divisionists appealed to the farmers, ranchers, and businessmen to demand a new county before they lost their businesses. In this context, they concluded emphatically,

"There is nothing yet presented that makes for such positive proof of the need of county division as this year's tax notices. Money talks, in fact it has shouted to the taxpayers of eastern Fergus county that if they fail to divide the county and secure their own county government, the imperial and autocratic county of Fergus will tax them out of existence.

"Need more be said?"<sup>1</sup>

As the first campaign moved into the second, the cries of tax injustice by the Petroleum proponents became louder and more numerous. To substantiate their insistence that a smaller county unit resulted in lower taxes, the advocates began to cite other county cases. Judith Basin County, they said in 1922, would have a 36 per cent reduction in taxes levied for the year.<sup>2</sup> Lake County, created only two years before, already had experienced a tax reduction. A letter from Mark H. Derr, county attorney of Lake, was printed to reinforce the claims. In the letter, Mr. Derr applauded the efforts to create Petroleum and stated,

"You are not thru with your fight, and you will sleep with your boots on before you get the new county, but it is worth while.

"We have clearly demonstrated in Lake County that a new county and a smaller county is far preferable to a larger and older county. Our taxes must be 15 per cent lower than the old county, and yet we will be able to make them still lower next year. The officers are conscientious and everything is far more satisfactory."<sup>3</sup>

According to the figures published in the Times, in late December, 1923, the expenses of Judith Basin County decreased from \$146,825 in 1922

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<sup>1</sup>The Winnett Times, October 28, 1921.

<sup>2</sup>The Winnett Times, August 18, 1922.

<sup>3</sup>Letter from Mark H. Derr, County Attorney, County of Lake, Polson, Montana, November 25, 1923, quoted in The Winnett Times, December 7, 1923.



to \$130,877. During the same time, Fergus County's expenses increased from \$489,673 to \$562,647. Thus, the expenses of the smaller units decreased \$15,948 while those of Fergus increased \$72,974.<sup>1</sup> Proponents of Petroleum County pointed to these figures and asked the taxpayers of eastern Fergus, "Is there any doubt but what Petroleum county will fare as well as Judith Basin County? Does anyone think the taxpayers of Eastern Fergus county will cease their efforts until the county is divided?"<sup>2</sup>

Such figures appeared with increasing frequency as the second campaign continued. An appeal appeared under the headline "A 'Fair' Argument Favors the Creation of Petroleum County . . . . The Only Remedy is County Division":

"A county fair is a mighty fine thing for any county to have-- if it can afford it.

"Last year Judith Basin County spend \$334.71 for county, state, and other fairs.

"Fergus County had a REAL fair. It cost the taxpayers \$28,690.00.

"This looks like a huge sum to expend in these hard times for a county fair. However, we must take into consideration that some revenue was obtained from the fair. In fact we find that \$14,433.65 is charged up to revenue. Subtract this sum from the total wxpense and we have left \$14,256.35. This \$14,256.35 would come within \$858.65 of paying the yearly salaries of all the officers and the county commissioners of Judith Basin county for the past year. Judith Basin county is a sixth class county. Petroleum county will be a seventh class county. The yearly salaries of the officers of a seventh class county, not including the commissioners and the necessary deputies, is \$11,150.<sup>3</sup>

These quotations from the local divisionist newspaper illustrate the methods of argument used to convince the taxpayers of eastern Fergus of the advantages in tax reduction that they would receive. As the cam-

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<sup>1</sup>The Winnett Times, December 7, 1923.

<sup>2</sup>The Winnett Times, December 7, 1923.

<sup>3</sup>The Winnett Times, August 18, 1922.

paigñ progressed, its instigators reminded the residents that after the new county was organized, Fergus would have to pay the new county for its share of buildings and county land--its share of \$29,000 worth of land, \$05,321.28 of buildings and \$57,815.21 in furniture and fixtures.<sup>1</sup> Divisionists also discussed school taxes paid to Fergus for support of the county high school; they asserted that a proposed six mill levy would cost eastern Fergus \$27,500 a year. Yet from the entire area, only ten students attended the county high school in Lewistown. A tidy sum, thought the Times--\$3,000 per student to attend a school eighty-five miles from the eastern boundary.<sup>2</sup> The money would be more profitable spent for a school nearer home and more beneficial to eastern Fergus.

As the second campaign neared its demise and plans were underway for the third effort, divisionists repeated the same tax arguments. They denied claims that organizational costs would be exorbitant or costs of transcribing records excessive. Once again, Lake County Attorney Derr reaffirmed the contentions of the Petroleum proponents. Derr stated that when Lake was created from Flathead and Missoula counties, over forty-five volumes of copied records plus files and maps had to be made. To copy 150,000 records from Flathead County cost \$7,400 dollars, while the expense for copying 36,000 records from Missoula cost \$7,200 stated Derr.<sup>3</sup>

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<sup>1</sup>The Winnett Times, October 26, 1923.

<sup>2</sup>The Winnett Times, November 2, 1923.

<sup>3</sup>The Winnett Times, December 14, 1923; and Letter from Mark H. Derr, County Attorney, County of Lake, Polson, Montana, December 3, 1923, cited in The Winnett Times, December 14, 1923.

To encourage Petroleum, Derr urged that ". . . talk about the expense of transcribing is all hot air. It is a small matter and you will be able to pay for the same out of your general taxes and then save money."<sup>1</sup>

To repeat the many tax arguments of the proponents during the final campaign would be redundant inasmuch as the arguments changed little in context from those of previous campaigns. They did become increasingly shrill as when The Winnett Times ran the headline "Fergus County Leads Montana in Orneriness and Indebtedness."<sup>2</sup> Probably the bitterness resulted both from the failure of previous attempts and the fact that, once again Fergus taxes increased. The tax levy of Fergus in 1924 had increased 25 per cent over the 1923 levy. From 28 mills, the levy rose to 35½ mills.<sup>3</sup> Eastern Fergus residents complained and presented figures to illustrate their belief that Petroleum County's levy could be held to the old Fergus levy of 28 mills.<sup>4</sup>

The most notable change in the tax arguments of the proponents during the last campaign dealt with the emphasis upon the oil royalties. Although oil figured notably in each campaign after 1920, sharp emphasis upon the oil royalties arose in the arguments of those promoting the county in late 1923. While the Supreme Court case which dealt with that very subject was pending, the proponents discussed the importance of the oil. To illustrate the economic well-being which the oil industry

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<sup>1</sup>The Winnett Times, December 14, 1923; and Letter From Mark H. Derr, County Attorney, County of Lake, Polson, Montana, December 3, 1923, cited in The Winnett Times, December 14, 1923.

<sup>2</sup>The Winnett Times, February 22, 1924.

<sup>3</sup>The Winnett Times, September 26, 1924.

<sup>4</sup>Ibid.

could bring to Petroleum, the effect of the tax upon schools was discussed:

"Few in the area of the proposed new county of Petroleum seem to realize what the organization of the new county will mean for them in the way of reducing their school tax.

"The school tax that went to Fergus County last year from the Winnett oil fields was \$30,000. This amount was divided among all the schools of the county, 6,139 pupils, excepting the high school students, which we have no complete record of.

"The proposed Petroleum county will have a maximum number of pupils in the neighborhood of 700 or less. Last year \$30,000 was divided among, possibly, 7,000 pupils. If Petroleum county is created, next year over \$30,000 in oil tax will be divided among 700 pupils in Petroleum county.<sup>1</sup>

In the final days before Petroleum county became a reality, the space devoted to tax arguments in the divisionist newspaper more than doubled. The voters were literally saturated with materials designed to convince them that the creation of Petroleum County would be financially advantageous to them. But the final appeal of this kind was made not to the voters in general but to the oil companies located in eastern Fergus. Since they had feared higher taxes and consequently fought the creation in the past, the oil companies were entreated to believe that the smaller county would reduce or at least not increase their taxes. When the campaign ended and Petroleum County came into being, its advocates thanked the oil companies for their cooperation. The new county officials acknowledged the oil fields as a tax asset to the county and promised the oil companies that, as ". . . large taxpayers they are entitled to and will receive a square deal . . . ."2

During the various campaigns, the issue of taxes certainly entered into the arguments proffered by the proponents of the new county. Yet

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<sup>1</sup>The Winnett Times, October 26, 1923.

<sup>2</sup>The Winnett Times, November 14, 1924.

if space dedicated to the issue is indicative of concern attached to the matter, the Lewistown papers were evidently less interested in the tax issue. Whereas, each issue of The Winnett Times for nearly four years editorialized about the tax question, the Lewistown papers treated it only sporadically. In 1919, for example, the opponents considered the matter of school taxes. To counteract the claims that the tax money spent on the county high school benefitted eastern Fergus little, the Lewistown papers replied that the high school existed for the benefit of the entire county. The high school had been built in response to requests throughout the county for the institution. The movement had not been confined to Lewistown alone, readers were reminded.<sup>1</sup> With the establishment of other high schools by "ambitious little towns," however, the residents of other areas felt subjected to a species of double taxation, reported the Lewistown paper.<sup>2</sup> That such was actually the case the paper denied. A real need existed for a school which was able to provide the best possible facilities and opportunities in the county. Moreover, they denied that only Lewistown students attended the high school; they contended that over three hundred students attended from other districts.<sup>3</sup> The opponents concluded this discussion of the value derived from the tax money for county schools by stating that one-third of the money gathered "ostensibly for county high school purposes" went to other districts, thereby benefitting the whole of Fergus County.

Throughout the various campaigns, the treatment of the tax issue by

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<sup>1</sup>Fergus County Democrat, June 19, 1919.

<sup>2</sup>Fergus County Democrat, June 5, 1919.

<sup>3</sup>Ibid.

opponents of Petroleum County remained essentially similar. In the 1921 campaign, the most bitter wrath was vented against county buster Dan McKay, whom the Argus called "a real pest."<sup>1</sup> The opponents called his work destructive. They declared on the one hand that the creation of counties at the time of economic depression was almost criminal. On the other hand, they contended that they did not oppose the creation of Petroleum County, provided the people were conscious of the facts surrounding such creation.<sup>2</sup> The facts counteracted contentions of the divisionists, asserted the Fergus County Argus. In an editorial entitled "County Division Data," the Argus sought to provide its readers with "facts":

The figures in the article will disclose to many some startling facts. Contrary to the propaganda so assiduously peddled by the professional county buster Daniel McKay, the figures show that considerably more was spent for roads and other purposes in the proposed new county than was received from that territory in taxes.<sup>3</sup>

The Lewistown sector warned that the county undoubtedly would be bankrupt before it got started. They pointed out that eastern Fergus possessed an exceedingly small population with a probable per capita indebtedness of some one hundred dollars.<sup>4</sup> To reinforce their contentions that the proposed county would be far from solvent, the paper drew the following picture of the dismal state of agriculture in the proposed county.

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<sup>1</sup>Fergus County Argus, April 8, 1921.

<sup>2</sup>Fergus County Argus, September 30, 1921.

<sup>3</sup>Ibid.

<sup>4</sup>Fergus County Argus, September 20, 1921.

The tragic part of it all is the fact that the courthouse records show foreclosures filed each day, the greater majority of them being in the proposed new county. At the present rate of foreclosures 50 per cent of the dry land farms in this area will be in the hands of the farm loan companies within three years, all of which has a direct bearing on the taxation produced, and of necessity downward.<sup>1</sup>

As the drive to create a county in eastern Fergus attained yet greater momentum, the tax issue became so paramount that the Lewistown forces could no longer deny its impact. Nor did they attempt to deny the validity of the claims that taxes had risen exorbitantly. Indeed, the Lewistown Democrat-News reported that many of the county's property owners had experienced tax increases of from 50 to 150 per cent over the previous year.<sup>2</sup> The article pointed out the inability of many to account for such an increase when the majority of the county's residents were financially exhausted, agriculturally or industrially depressed. Thus, the paper made no attempt to deny the gravity of the situation. Rather--almost in agreement with the county proponents--the article concluded,

. . . what is true of the county holds good in the city of Lewistown. Taxation is running dangerously near the reefs of confiscation in our city. Such a condition can only have the effect of halting the growth of the city and leaving those who are interested here in a very sour frame of mind. There is no use to attempt to gloss over or evade a matter which is now uppermost in the minds of every property owner in county or city. Taxes have got to come down.<sup>3</sup>

After such open admission of the problem, however, the Lewistown papers again ignored the taxation issue after 1921. Occasionally the

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<sup>1</sup>Fergus County Argus, September 20, 1921.

<sup>2</sup>Lewistown Democrat-News, n.d., n.p., quoted in The Winnett Times, October 21, 1921.

<sup>3</sup>Ibid.

anti-divisionists sought in print to refute the contentions of the divisionists. For the most part, however, they must have argued their case orally and more subtly. For although the Winnett Times reported the Lewistown tax arguments when attacking them in print, the county seat papers seemed less concerned. When the tax issue occupied nearly every issue of the eastern Fergus paper in 1923, the Lewistown Democrat-News devoted little space to the Winnett claims.<sup>1</sup> In an article entitled "Our County Affairs," the editor discussed the matter of taxes in what he called a most impartial fashion . . . ."<sup>2</sup> Stating that he had no intention of defending the criticized county commissioners, the editor expressed the following view as one held by the residents of the Lewistown area:

Many people are under the impression that Fergus county is in a very bad way financially. The balance sheet does not confirm such an impression. Our county has some two million dollars in funds outstanding and about three hundred fifty thousands dollars worth of registered warrants. Over on the credit side of the page stands the assessed valuation of the county of approximately \$80,000,000. Thereto must be added about \$1,000,000 in cash, accumulated for the retirement of outstanding bonds. In other words, we could pay off one-half of our bonded indebtedness right now if it were held expedient to send that amoung of money out of the county.<sup>3</sup>

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<sup>1</sup>The Winnett Times believed the Lewistown papers purposely ignored the issues. In 1921, the paper alleged that Lewistown papers failed to openly oppose county division because of a desire to maintain subscribers in eastern Fergus. In his editorial "Why Not Come Out in The Open?," Winnett editor Doherty suggested, "Indeed it must be galling to Tom Stout, editor of the Lewistown Democrat-News to have to creep around in the dark when fighting county division. Tom does not wish to create a feeling against his publication in this section of the county as we are too close to the Billings dailies but Tom is pressed, no doubt, by his Lewistown advertisers to take a wallop at us once in a while. In order to do this and attract the least attention possible to the Democrat-News, he reprints the libel of the Grass Range Review in his editorial columns and gives them credit for it. "Come out in the open, old scout, we will all like you better for it . . . ." (The Winnett Times, December 2, 1921).

<sup>2</sup>Lewistown Democrat-News, April 22, 1923.

<sup>3</sup>Ibid.



The editor concluded that such action would be inadvisable since it would remove the basis of credit which the banks extended to the people. Such removal would cause hundreds of loans to be called in, and hence entail "unparalleled distress." Thus, the Democrat-News not only denied that the financial situation in Fergus during 1923 was still risky, but it denied that the increased taxation and indebtedness represented the danger that the eastern residents claimed. Certainly, this viewpoint was almost diametrically opposed to that of the divisionists.

Late in 1923, the Lewistown papers printed few tax arguments that could be identified as anti-county propaganda. Occasionally, the Fergus County Argus or Democrat-News printed a comment from the Grass Range Review, a paper in competition with The Winnett Times. Upon such occasions, the Times accused the papers of "passing the buck" to avoid controversy.<sup>1</sup> Yet for the most part the papers of the anti-division sector discussed the tax issue infrequently before the final election.<sup>2</sup>

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<sup>1</sup>The Winnett Times, October 26, 1923.

<sup>2</sup>Perhaps they did this because they did fear loss of the eastern oil fields. Or, on the other hand, their neglect might have stemmed from a recognition that little could be said on their part. Indignation over the tax situation in Fergus had spread not only to eastern Fergus but to the western end as well. Such communities as Denton, Hilger, Brooks, Danbers, Fergus, Winifred, Coffee Creeek in the west and a more easterly one, Forest Grove, made written demands to the county seat for a financial clean-up. During May, 1924, each of the communities requested a grand jury investigation of the affairs of Fergus. The Winnett Times alleged that a political ring at Lewistown controlled the county. Urging the taxpayers to vote in responsible politicians, the Times concluded, "The 'Ring' is not partisan, it controls both the republicans and democrats, so it will be necessary that the voter look to his man and not to party." (The Winnett Times, April 11, 1924). Whether these allegations of corruption were correct or not, the fact that so many towns requested an investigation into the financial affairs probably indicated to the Lewistown faction that mere denials would prove little. And, moreover, that silence might convince others the tax problem was less serious than some considered it to be.

Although the issues of tax injustice and road neglect occupied much of the discussion during all years of the campaigns, several others appeared from time to time. The issues of self-determination, of independence and of representation were stock arguments brought up in every Montana county campaign; thus, when eastern Fergus sought exclusion from Fergus County, the issues arose there as well. Eastern Fergus took up the cry for self-determination and independence as early as 1921 and reaffirmed and reinforced the arguments after each unsuccessful fight. The general issue changed little after 1921. Advocates of Petroleum County stressed the right to independence as an age-old American value. But they would need to fight for that independence and freedom because Lewistown would not let the oil-rich district go. Arguing that no relief from taxation and neglect from Lewistown had come, the residents of eastern Fergus demanded self-government on the basis of "Taxation without representation." This appealing argument, clothed in the garb of tradition, appeared in a Winnett editorial.

. . . what's the use of postponing the day of self-government? Can any responsible man put up an argument against the division of Eastern Fergus? The only argument we hear is that this is not the time to do it. Our forefathers in the barefooted ranks of George Washington, listened to this sort of argument with scorn. They knew that then was the vital time to strike or forever hold their peace. Taxation without representation was the issue at the time of the birth of (sic) our nation. It is the issue now at the birth of our new county of Petroleum.<sup>1</sup>

Alleging that Petroleum would need to fight for its independence because "history records that Freedom must be taken and is not given by anyone,"<sup>2</sup>

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<sup>1</sup>The Winnett Times, September 9, 1921.

<sup>2</sup>The Winnett Times, September 23, 1921.

eastern Fergus declared battle against the mother county. In print it was contended that Lewistown refused to grant independence because of the oil fields. In a column entitled "Pat and Mike On Liberty," a vernacular dialogue of two Irishmen<sup>1</sup> pleaded for self-determination and emphasized the unwillingness of Fergus to lose the oil fields.

"Hark Moike, ther's some oirishmen in Lewistown that don't rally believe in that word, self-determination for when Petroleum county want her liberty they tell us to go way back and sit down, far this is no timer fer to pull aff any such shtunts.

"Say Moike, if Oireland efer struct ile the she never would get away from England for that phat makes Lewistown foight so devilish hard to hould Petroleum county from making a get away.<sup>2</sup>

The issue of self-determination continued throughout the following campaigns; after each failure, Petroleum proponents cried that once again, they had been denied their democratic right to independence and the franchise.

Allied with this argument was that of their constitutional right to representation. Beginning with the contention that they were subjected to taxation without representation, the residents of eastern Fergus asked for a representative of their views in county and state government. The creation of Petroleum County would provide them with such a representative. In 1921, before the oil industry had reached its zenith as the area's

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<sup>1</sup>The Pat and Mike articles appeared regularly in The Winnett Times during the first campaign. They were signed by a "Dan Forest," probably a pseudonym for Dan McKay, since these same columns appeared in the newspapers of other areas during new county campaigns managed by McKay. The Geraldine Review inferred that the "Pat and Mike" series was authored by McKay. Reprinted in The Winnett Times (August 12, 1921), the Review article stated that "The Cat Creek section of Fergus county has all the pins set to launch a campaign for the creation of Petroleum county. The ubiquitous Dan McKay has engaged a front seat for the campaign and we presume "Pat and Mike" will soon be telling their troubles."

<sup>2</sup>The Winnett Times, September 2, 1921.

leading industry, the argument was voiced as a need for a representative of the views of eastern Fergus agriculturalists. The editor of the Winnett Times advocated not only the creation of the county of Petroleum but of other counties as well in order that the legislature might be made more responsive to the view of agriculture. In his opinion, "Each time a new county is formed in eastern or central Montana a new senator and representative are sent to the state legislature to help offset the old guard of the big mining corporations. With the formation of enough new counties the agricultural class will in time be represented. Let the good work go on."<sup>1</sup>

Dan McKay echoed these sentiments in 1921. He, too, urged the creation of Petroleum County in order to send young, progressive, ambitious, rural-element representatives to Helena. He contended that city politicians always occupied the state senate which became the graveyard for the good laws passed by the state house of representatives.<sup>2</sup> But with the creation of small county units, control would soon rest with the younger, more progressive men.

As the campaign moved into its second phase, the Petroleum proponents reaffirmed their arguments. They contended that Fergus County office-seekers rarely, if ever, bothered to advertise their qualifications in eastern Fergus. Since they were invariably Lewistown residents, they realized that "west end control" would get them elected. Eastern Fergus was merely a secondary consideration, according to the eastern residents.<sup>3</sup>

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<sup>1</sup>The Winnett Times, August 19, 1921.

<sup>2</sup>The Winnett Times, November 4, 1921.

<sup>3</sup>The Winnett Times, July 21, 1922.

Only one remedy existed for this as well as the other evils: the creation of a county in eastern Fergus and officials who would represent its residents.

The issue of representation for eastern Fergus reappeared prior to the successful election. A new element, however, was apparent in the desire for representation. Now, the editor of the Times suggested the importance of a legislator to represent the Petroleum County issue and the oil interests. "Monopolistic interests will move heaven and earth at the next session to kill the county division law and reduce or wipe out the net proceeds tax on mines--which also applies to oil," warned the Times.<sup>1</sup> To offset such tendencies, the paper urged that men of liberal inclinations be elected who would represent eastern Fergus' views and push progressive legislation. Eastern Fergus was entitled to at least one representative, was the claim.<sup>2</sup> That representative would allow no unfair tactics against the oil companies, promised the proponents of the county. One senator and one representative would, for the first time, be able to represent the Winnett oil fields and the eastern Fergus agriculturalists.

While the county's advocates argued for self-determination, independence, and representation, western Fergus also expressed its views. The arguments presented by Dan McKay in the first campaign were called

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<sup>1</sup>The Winnett Times, July 24, 1924.

<sup>2</sup>In urging the election of liberal politicians, the Times openly sought to intimidate office seekers to support the Petroleum County movement. The statement "the politician of the future whose name is not found on the Petroleum County petition will be out of luck" carried its message clearly. (The Winnett Times, October 21, 1921).

"stock arguments" flagrantly misrepresented by him and other irresponsible demagogues.<sup>1</sup> However, purported the Argus, "we believe in self determination, even when it comes to the organization of a new county."<sup>2</sup> Therefore, they expressed willingness to allow the citizens of eastern Fergus to decide the matter as they wished. The same view prevailed in print throughout the later campaigns. The implication was clear, however, that although eastern Fergus should have the right of self-determination, the creation of a county would be folly. On the one hand the Lewistown faction stressed their willingness to allow the citizens of eastern Fergus to decide the matter as they wished. The same view prevailed in print throughout the later campaigns. The implication was clear, however, that although eastern Fergus should have the right of self-determination, the creation of a county would be folly. On the one hand the Lewistown faction stressed their willingness to cooperate because "if the people of eastern Fergus want a new county and so determine upon a full consideration of all the facts, they are privileged to have that."<sup>3</sup> On the other hand, this element asserted that economy could not be achieved by duplication of government machinery and that, consequently, such thinking was "absurd," a "fallacy," and pure "bunk."<sup>4</sup>

Allied with the issues of road neglect and taxation, the ideals of self-determination, independence and the right to representation remained viable until the creation of Petroleum County resulted. Interspersed with each of these issues after 1921 was another which, voiced or not, seemed

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<sup>1</sup>Fergus County Argus, August 12, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>Ibid.

<sup>4</sup>Ibid.

to be a salient issue in the creation of a county in eastern Fergus. Oil, or its discovery in 1920, became a major factor encouraging the proponents to continue their fight. On the other hand, this new wealth probably induced more strenuous efforts by the anti-divisionists who feared the loss of the fields, to block the efforts of the divisionists.

It appears that the discovery of oil contributed to a strong, rather bitter competition between eastern Fergus and Winnett in particular, and the county seat of Lewistown. Within a few months of this event, the conflict was apparent. The competition seemed to derive originally from the publicity given to the oil fields by Lewistown. When Lewistown residents formed an Oil Publicity Bureau to publicize the Cat Creek field, Winnett residents indignantly accused Lewistown of attempting to steal "Winnett's thunder."<sup>1</sup> The conflict attained greater proportions when the Oil Publicity Bureau adopted the following slogan: "Lewistown Oil Fields Make Montana Famous."<sup>2</sup> The Winnett paper immediately called the slogan absurd. "The public can not everlastingly be bamboozled into thinking that the oil cities lie miles and miles from the oil fields," affirmed the Winnett editor.<sup>3</sup>

The conflict continued with increasing intensity and bitterness. The Lewistown Chamber of Commerce took every chance to promote their city's development with advertisement of the oil fields. The members promised the Lewistown residents they would ". . . keep Lewistown as a city right up in the lead with the rapid-fire development of the wonder-

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<sup>1</sup>The Winnett Times, April 8, 1921.

<sup>2</sup>Ibid.

<sup>3</sup>The Winnett Times, June 3, 1921.

worker oil fields."<sup>1</sup>

With such advertisement emanating from Lewistown, the Winnett residents worried because the oil fields were being promoted throughout the northwest but Winnett was not.<sup>2</sup> Consequently, they too, stepped up promotional activities. The competition became increasingly fierce, and editorial brick-bats more numerous until, in July, 1921, the Winnett editor tied the oil competition to the need for county division. Suggesting an outright break of eastern Fergus from the mother county, he wrote,

"How could they expect the Winnett oil fields to develop Lewistown and increase its activity to any great extent? Are they not nearly 100 miles from the closest producer? Quite naturally there were many in Lewistown who thought they could steal the field from Winnett and this thought was father to their utterances and many of their actions. However, from present indications it would seem that the more conservative have brought the radicals back to normalcy and convinced them that it is absolutely impossible to annex the Winnett oil fields.

"The west end is coming to the realization that the east end is a power in itself and will soon be in a position to make the mountain range a permanent barrier as to political and industrial dictation. Speed the day."<sup>3</sup>

After the first campaign for the creation of Petroleum County by petition and election began, the issue of the oil fields achieved preeminence. Lewistown residents professed a belief that the delinquent Fergus tax situation made it an inopportune time to divide. Eastern Fergus immediately countered that the Lewistown concern stemmed not from the depression but rather from concern over the oil fields which would be included in the new county.<sup>4</sup> The oil fields would be a financial asset,

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<sup>1</sup>Lewistown Democrat-News, February 15, 1921.

<sup>2</sup>The Winnett Times, April 1, 1921.

<sup>3</sup>The Winnett Times, July 15, 1921.

<sup>4</sup>The Winnett Times, August 19, 1921.



helping to build schools and roads and thereby amply supporting the county. In this vein of thought, the Winnett Times asserted that the residents of Lewistown ". . . admit reluctance because when Petroleum county is formed so goes the oil fields out of Fergus county."<sup>1</sup> Dan Forest's Pat and Mike characters leveled the same accusation, saying that Lewistown ". . . smells thatt crude ile for 80 miles and she dont snat to loose any ile or gas or anything els she kan hang onto."<sup>2</sup>

The tenor of the oil argument remained substantially similar in the subsequent years with but one noticeable exception. Anti-divisionists argued that a count built upon one industry only could be in a precarious financial situation should the industry fail. And, by implication, the anti-divisionists predicted such failure. At one point the Grass Range Review asked the divisionists, "What will become of Petroleum county when the oil wells peter out?"<sup>3</sup>

Probably the divisionists recognized that the question was a legitimate one. Particularly after the peak year of 1921, the production figures indicated that the wells might indeed "peter out" at some future date. Yet the divisionists either refused to concede the possibility, or actually did not see the implications of the gradual drop in production between 1921 and 1924. Either alternative is a possibility, but the former seems more likely in view of the determination of the eastern Fergus residents to get Petroleum County created.

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<sup>1</sup>The Winnett Times, August 19, 1921.

<sup>2</sup>The Winnett Times, September 16, 1922.

<sup>3</sup>The Grass Range Review, n.d., n.p., quoted in The Winnett Times, December 2, 1921.

The above conclusion seems warranted when one views the gradual tendency of the divisionists in the second and third campaigns to stress the growing agricultural prosperity in addition to the oil development. Thus, rather than indicate that Petroleum County could be economically solvent on oil alone, the advocates began to base their appeal on both agriculture and oil would sustain the economy. This trend appeared in the fall of 1923. At that time, the eastern Fergus newspaper appealed to the farmers to support the county movement since both agriculture and oil would sustain the economy. The Times suggested that although oil had supported the area during the hard times, the future economy of Petroleum County would be based upon a "wonderful combination of oil and soil."<sup>1</sup>

Yet as if to avoid speculation that eastern Fergus did fear decline in oil production, the Winnett newspaper was careful to supplement its appeal to farmers by continuing the appeal to oil men as well. The creation of the County of Petroleum stressed the Winnett editor, would enable the oil industry as well as agriculture to attain full potential. With the new county, its residents would no longer ". . . have to suffer a divided attention with the famous Judith Basin as is now the case."<sup>2</sup> The same article accused Lewistown of appealing to homeseekers from other areas not to settle in eastern Fergus. With an organized effort, however, the homeseekers would see that Petroleum county exhibited all the advantages of western Fergus with (again appealing to oilmen) ". . . the only paying oil field thrown in."<sup>3</sup>

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<sup>1</sup>The Winnett Times, September 14, 1923.

<sup>2</sup>The Winnett Times, September 28, 1923.

<sup>3</sup>Ibid.

The oil controversy continued to play a prominent role during the final years before the campaign's successful end. The anti-divisionists pointed constantly to the declining production figures, while the proponents counteracted with bitter headlines such as "Fighting County Lying About Cat Creek Production" and denials that Cat Creek was going dry.<sup>1</sup>

Indeed, the impact of the oil issue upon the creation was so great that it continued even after the creation of Petroleum County. The week following the election The Winnett Times was still decrying the fact that they could not get boosters who would promote their field in the way that the Kevin-Sunburst promoters did. The issue, then, had not died. Eastern Fergus boosters still felt that they had to promote their belief that Cat Creek field was, and would continue to be ". . . the richest in the northwest."<sup>2</sup>

Petroleum County, named for its primary resource, came into being after several years of intense campaigning by those in eastern Fergus. Originally, the movement was incited by a combination of factors: (1) a desire for roads in eastern Fergus which would facilitate accessibility and thereby develop that area; (2) a desire to spend the tax money of eastern Fergus in eastern Fergus; and (3) the traditional cry for self-determination, independence and representation. But it was the oil issue which produced the name of the county, and probably the county itself.

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<sup>1</sup>The Winnett Times, October 26, 1923. In December, 1923, the Times boasted that Petroleum County would have no fear of lack of resources to finance the government once created. Pointing to the Cat Creek fields, the article acclaimed, "The Cat Creek field has delivered over \$10,000,000.00 in crude oil since its discovery; we have three irrigation projects that will be developed soon and the best corn lands in the United States." (The Winnett Times, December 14, 1923).

<sup>2</sup>The Winnett Times, November 21, 1924.

## CHAPTER IV

### CONCLUSION

The creation of Montana's last county--Petroleum County--was achieved only by overcoming numerous obstacles which blocked its creation for six years. Perhaps its creation was difficult because it closed the county-busting era; perhaps, too, this particular county division attracted more opponents than the other twenty-seven created after 1910. Whatever the reasons, the campaigns to create Petroleum County took several years of repeated and unremitting efforts by proponents of division.

The first campaigns for the division of eastern Fergus were launched in 1919, while Montana was experiencing a drought which generated widespread agricultural depression. Two proposals for the creation of a county from eastern Fergus were introduced in the Montana legislature. Both proposals--one to create Cruse County and the other a county to be known as McKinley--died in the House of Representatives whose Speaker, O. W. Belden of Fergus, was wellplaced to oppose them. During the 1921 session of the legislature, a second Cruse County bill died in the Senate, while a bill to create Edgerton County from the same area died in the House Committee on New Counties and Divisions.

The third stage of the campaigns followed the discovery of oil in the Cat Creek region of eastern Fergus in 1921. This time the proponents utilized another approach; blocked in two sessions of the legislature, the advocates turned to the provisions of the 1911 Leighton Act authorizing

creation by local petition and election. Such creation appeared more feasible in light of the 1919 amendments which reduced the required assessed valuation of both the mother county and the proposed new county. A county now needed but \$4 million assessed valuation and an area of 1,000 square miles. The recent oil discoveries suggested the requisite valuation would be relatively easy to amass in eastern Fergus.

The first campaign for petition and election encountered opposition in the mother county. The Fergus County commissioners declared the petition inadequate because, they felt, "withdrawals from withdrawals" of signatures on petitions were not valid. A suit was brought against the county commissioners by disappointed eastern Fergus residents. The District Court, and subsequently the Montana Supreme Court upheld the decision of the county commissioners.

The divisionists began yet another campaign. After gathering the requisite signatures a second time, the eastern Fergus County campaigners presented a petition to the county commissioners in October, 1923. An unexpected and somewhat formidable opponent blocked that election. The Mid-Northern Oil Company, represented by Attorney Charles J. Marshall, requested and received an injunction from the District Court. Again, the divisionists appealed and again, the Petroleum County issue reached the Supreme Court of Montana. A major issue was whether the oil royalties should have been computed in the assessed valuation on the basis of one hundred cents on the dollar or on the basis of forty cents on the dollar. The Supreme Court granted the injunction, but on a procedural ground of insufficient publication of hearing rather than upon the substantive

oil taxation issue. Indeed, the ruling of the court failed even to mention the oil issue which had been a prominent section in the briefs of both parties to the suit.

In June, 1923, the county commissioners received still a third petition from the determined eastern Fergus residents. The commissioners granted a hearing, declared the petition valid and made provisions for an election to be held on the general election date, November 4, 1924. An affirmative vote of 80 per cent of the residents of eastern Fergus created Petroleum County. Ninety days after the resolution was filed with the Secretary of State, Petroleum County came officially into being on February 22, 1925.

Petroleum County may have encountered more obstacles to creation than many of the other fifty-five counties. But even its birth was troubled, and the Supreme Court had to act yet again as midwife, in the third litigation to reach the high court. Senator John L. Mears (Republican, Judith Basin) had introduced a bill<sup>1</sup> on February 5, 1925 "Relating to Changing the Boundaries of Fergus and Judith Basin Counties."<sup>2</sup> In effect this legislation abolished Petroleum County by defining the boundaries of Fergus County as they had existed prior to the separation of Petroleum County. The Act passed the Senate without opposition and the House by a vote of 50 to 31.<sup>3</sup>

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<sup>1</sup>Mr. Donald L. Sorte, Executive Director of the Montana Legislative Council, called attention to this episode in a letter December 2, 1965.

<sup>2</sup>Montana Laws 1925, Chapter 93.

<sup>3</sup>Senate Journal 1925, p. 373; and House Journal 1925, pp. 640 and 679-80.

The circumstances suggest confusion and preoccupation with another problem, rather than conspiracy. The Petroleum County Senator, Guy Schellenger, the Fergus County Senator, Charles V. Peck, and the Petroleum Representative, R. J. Woods all voted for the bill. What is more, Representative Woods sat on the House Committee on New Counties and Divisions and joined the majority of the committee in its recommendation to concur in passage of the Senate bill. As further evidence of the general confusion, Representative Noble M. Walker (Republican, Fergus), the Lewistown member of the House committee, joined the minority who opposed the committee report. Walker later voted against passage of the bill, along with Representatives E. O. Hedrich (Republican, Fergus) from Moore, and B. F. Moulton (Republican, Fergus) from Grass Range. Representative Albert Johnson (Republican, Fergus) from Denton did not vote.<sup>1</sup>

By original action in quo warranto June 16, 1925, Attorney General L. A. Foot asked the Supreme Court ". . . by what warrant or authority . . . (the newly elected county commissioners of Petroleum County) assume to discharge the duties and exercise the powers of county commissioners . . . ." The inquiry was ". . . prompted by the fact that the Nineteenth Legislative Assembly by an act approved March 10, 1925 (Chapter 93, Laws of 1925) abolished Petroleum County and vacated the offices to which the defendants had been elected."<sup>2</sup>

On June 25 the Supreme Court declared Section 1 of the 1924 Act to be invalid, and dismissed the complaint. The act violated Article

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<sup>1</sup>Senate Journal 1925, p. 373; and House Journal 1925, pp. 640 and 679-80.

<sup>2</sup>State ex rel. Foot v. Burr et al., 73 Mont. 586, 238 Pac. 585 (1925).

V, section 23 of the Montana Constitution which stated that no bill should be passed containing more than one subject--a subject which must be clearly expressed in its title; moreover, any section embracing a subject which was not expressed in the title would be void. Such restrictions would

. . . prevent the legislators, and the people generally (from) being misled by false or deceptive titles, and (would) . . . guard against the fraud which might result from incorporating in the body of a bill provisions foreign to its general purpose and concerning which no information is given in the title.<sup>1</sup>

The court declared that the title of Chapter 93 violated these constitutional requirements as to title. The title of the act had defined the boundaries of Fergus County as those in existence March 5, 1921; yet as defined in section 4318 these boundaries were no longer accurate on March 10, 1926, the effective date of the new legislation. The creation of Petroleum County had changed the boundaries of Fergus County. Justice Holloway, delivering the opinion of the court, noted that

. . . throughout Chapter 93 there is not a suggestion that Petroleum county was to be affected; no reference is made to that county, nor to the obligations which it had incurred and were outstanding. Indeed Petroleum county is not mentioned in the entire Act, and a person, even though he be a skilled engineer not personally familiar with the location of the lower Musselshell River and with the ground must employ a map and township plats and make a critical examination of the description contained in section 1 of Chapter 93 with reference to the map and plats, in order to ascertain that Petroleum county has been affected in the least. However, by the use of a map and the plats and by following critically the metes and bounds given in section 1, it will be found that Petroleum county was completely swallowed up,--its entire area included within the boundaries of Fergus County.<sup>2</sup>

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<sup>1</sup>State ex rel. Foot v. Burr et al., 73 Mont. 586, 238 Pac. 585 (1925).

<sup>2</sup>Ibid.



The Justice concluded his invalidation of the act by asking, "Can it be said, then, reasonably that the title 'An Act to Amend Sections 4318 and 4327 of the Revised Codes of the State of Montana, 1921, Relating to Changing Boundaries of Fergus and Judith Basin Counties,' expresses clearly, or at all, a legislative purpose to abolish Petroleum county? To ask the question is to answer it in the negative."<sup>1</sup> Thus, the Supreme Court nullified a belated if unintentional act to eradicate Petroleum County within weeks of its creation.

Why was Petroleum County not created during the county-busting era which witnessed the emergence of twenty-seven other counties? In the first place, the first and second legislative campaigns (1919 and 1921) took place during a period of general and severe agricultural depression throughout Montana; after a decade of incomparable wheat production and high prices, three years of drought had painfully illustrated the problems inherent in dry-land farming of much of Montana's central and eastern regions. The area of eastern Fergus County--which normally experienced a minimal rainfall at best--suffered from the drought with the rest of the county. Hence, a legislature keenly aware of the economic effects of the drought in the state showed reservations about the creation of new counties in general, and one in eastern Fergus in particular.

The growing reluctance of the two legislatures toward county creation was exhibited by the introduction of bills to tighten up requirements for creation of new counties. The governor, as well, expressed doubts about creation of counties by legislative resolution and indicated an intention

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<sup>1</sup>State ex rel. Foot v. Burr et al., 73 Mont. 586, 238 Pac. 585 (1925).

to veto new county bills that he considered unjustified. Moreover, at this time, resolutions such as that by Senator J. B. Gnose suggesting that county bills not be considered at all illustrated the emerging reaction against county creation. So intense was the controversy over such bills that the 1919 House finally resolved not to consider new county bills when the eastern Fergus residents failed to agree on boundary lines.

Legislative opposition reappeared in 1921 and again no new county in eastern Fergus emerged by legislative resolution. Internal division over proposed county lines within eastern Fergus still persisted. While a new economic force--oil--had appeared in 1920, significant opposition also emerged from the Fergus County seat, Lewistown, and other areas of western Fergus.

Understandably, western Fergus did not wish to lose the newly discovered wealth and potentially significant tax source. Thus, western Fergus seemed determined to prevent the creation of Petroleum County and lent considerable and renewed energies to obstruction. In the second place, the discovery of oil brought yet another formidable opponent of creation in 1921, the oil companies themselves. Fearing an increase in taxes in spite of evidence to the contrary, one oil company (the Mid-Northern) brought suit against the county commissioners to enjoin the creation. Their concern was obvious; they stood to gain (if upheld) a remittance of sixty cents from every dollar previously paid on oil royalties if their classification were changed. Although the Mid-Northern failed to have the oil royalty tax classification changed, the injunction was granted on another basis. Still, the creation of Petroleum County was effectively prevented.

The "county-busting" decade had terminated. The state had not yet recovered from the demoralizing and depressive affects of agricultural depression. What factors, then, accounted for the eventual creation of Petroleum County? In the first instance, the factor of accessibility was of primary importance; railroad penetration came late to eastern Fergus and the automobile roads were few and poor. Economic development had been retarded. Thus, the prospects of a county government which would build roads east of Lewistown persuaded many farmers, businessmen and land owners of that region to become county busters. Increased accessibility would bring settlers, facilitate marketing, and increase the demand for services, land and goods.

In the second instance, the stubborn arguments over the location of a county seat in the proposed county indicate that the residents were, indeed, interested in obtaining a county seat of their own. The values of a closer county seat at which to do business; of a closer center of law enforcement; of a county government to allocate one's own taxes; as well as the unspoken knowledge that such location would bring new buildings and business--all these reasons added to the new-county fervor in eastern Fergus. The attainment of a state senator to represent the eastern area lured many boosters to the side of the proponents, also. At first the argument was for a representative of the eastern Fergus agricultural and livestock interests, one who would be interested in something other than western Fergus wheat interests only. Later, after the discovery of oil, a representative of the oil interests was considered to be a necessity. Hence, the argument arose that a new county would ensure a representative in the legislature of both "oil and soil." Political factors, then, under

the potent banner of "self-government" and "taxation without representation" sustained the demand and the movement for Petroleum County which culminated in the 1925 success.

Still a third factor of considerable importance in the achievement of the new county goal was the person of C. J. Doherty, editor of The Winnett Times. Doherty's role as editor of the pro-division newspaper, later the official newspaper of Petroleum County, placed him in a position of considerable influence. Beginning in 1919, the irascible, often humorous and unremitting Doherty advocated the creation of a new county from eastern Fergus. The editor's dedication to this cause and his efforts to that end never slackened throughout the numerous campaigns; his editorials became ever stronger, his condemnation of the western Fergus anti-divisionists more vituperative. Doherty belonged to virtually every commercial club and booster committee in the area and even persuaded the Chamber of Commerce to disseminate his newspaper throughout eastern Fergus in the final months of each campaign. Undoubtedly, it was C. J. Doherty, the mouthpiece of the division proponents, who reached and persuaded more residents to support the campaign than did any other divisionists in the several years of his activity. As a result, the role of the Winnett editor seems to have been a paramount factor in the eventual creation of Petroleum County.

Petroleum County emerged in consequence of yet another contributing factor. As previously mentioned, the statutory regulations for creation by local petition and election were still relatively permissive. After a tightening of the requirements in 1915, the provisions had been amended in 1919 again to facilitate creation by petition and election. Under

these relaxed requirements (passed by the legislature to expedite petition and election creation and lessen the demand for legislative resolution) the three petition and election campaigns for Petroleum County emerged. Both the requisite assessed valuation and the area had been reduced from the stringent 1915 requirements. As a result, the proposed Petroleum County needed an assessed valuation of but four million dollars and an area of one thousand square miles. In addition, its county lines, according to the new provisions, could pass as close as fifteen miles to the Fergus County seat if desired. Finally, the percentage of signatures required for a petition had been reduced considerably in 1919. After that time, the petitions requesting creation of Petroleum County required signatures of but 58 per cent, rather than the former 65 per cent of the residents of eastern Fergus.

It is clear, therefore, that the creation of Petroleum County was accomplished as a result of a variety of related factors: desire for accessibility and economic development; desire for a county seat, law enforcement, and a Petroleum County representative; the dogged influence of the Winnett editor, C. J. Doherty; and finally, the reduced statutory limitations permitting county creation by petition and election.

Yet of themselves, these interests might not have been sufficient to impel and continually renew the impetus through six years. Rather, oil discovery in eastern Fergus may be seen as the distinctive and paramount factor in the promotion and achievement of Petroleum County for several reasons. It should be stressed again that Montana during the period 1917-1920 was suffering a pervasive economic depression stemming from the agricultural drought. The "county-busting" fervor inherent in

the wheat boom days had terminated. Eastern Fergus suffered, too, and was unable earlier to justify the creation of a county from its area during such widespread economic decline. The Cat Creek strike transformed the economic situation in that sector of the county; between its first and second years of production, alone, the total yield of the field grew from \$734,181 to \$2,085,296.87.<sup>1</sup> Eastern Fergus had become an economically solvent region.

The discovery aggravated the competition between Winnett and its eastern "no man's land" area and the west, most notably the Fergus County seat, Lewistown. The competition appeared originally in the advertisement of the oil fields. Whereas Lewistown advertised itself with the slogan "Lewistown Oil Fields Make Montana Famous," Winnett residents counteracted with allegations that Lewistown was attempting to "steal Winnett's thunder." Hence, the Winnett residents concluded that the only answer was to form their own county and incorporate their eastern Fergus oil fields. Thus, the Winnett residents in particular increased their drive for the new county.

In addition, the oil discovery facilitated the creation of Petroleum County by providing the required assessed property valuation. Prior to the oil boom, it had been difficult to amass the requisite valuation, particularly during the drought years immediately preceding the oil discovery. By 1921 and the first petition and election campaign, however, the Cat Creek fields alone were yielding oil valued from \$2,000,000 to \$3,366,000 per year. With the assessed valuation of county determined

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<sup>1</sup>Montana Resources . . ., 1926, p. 192.

on the same classification as the imposition of taxes, the net proceeds of mines were classified on the basis of 100 per cent of their true and full value. Although fought by the anti-divisionists and the oil companies, the determination of the assessed valuation of the proposed county also included oil royalties to be taken at 100 per cent of their true and full value. Therefore, between the first petition and election campaign in 1921 and the last and successful 1925 campaign, the proponents encountered few problems in meeting the valuation provisions of the petition and election law.

Presence of the oil fields in eastern Fergus not only encouraged competition between the east and western ends of the county, but accelerated the movement for division and enabled residents to amass the requisite valuation. It also encouraged the movement by suggesting that the tax future of Petroleum County would be well-based. Oil production figures continued to climb until mid-1923; then they revealed significant decline. But by that time, the eastern Fergus agricultural situation had greatly improved; widespread conversion to diversified agriculture and methods of irrigation implied that the proposed county would still be firmly based upon a combination of "soil and oil." Consequently, in spite of the decline in oil production, the economic picture continued to encourage the proponents of the county in their efforts to achieve the formation of Petroleum County. Coupled with the fact that after the 1923 injunction the oil companies expressed their intentions to fight the creation no longer, the economic picture as stimulated by the oil discovery, contributed greatly to the success of the movement.

It seems conclusive that the paramount factor leading to the

creation of Montana's last county was the discovery of oil in eastern Fergus. The ramifications of that discovery generated enthusiasm, competition, dedication and unremitting determination on the part of those advocating the county. Then it generated equally strong sentiments on the part of those advocating the county. Then it generated equally strong sentiments on the part of the anti-divisionists; their opposition undoubtedly stimulated the divisionists to ever more potent efforts. Thus, the discovery of oil, when supplemented by the other factors suggested, led to the creation of the last of Montana's counties--five years after the enthusiasm of the "county-busting era" in Montana had passed.



## Epilogue

Petroleum County today resembles very little the county that emerged in 1925. No longer do the Cat Creek fields yield three million dollars a year. As late as the thirties, however, Montana, A State Guide Book still alluded to the oil potential of Petroleum County. Of Winnett, the county seat, the book remarked, "A large refinery, and three storage tanks holding 100,000 gallons each, announce its chief reason for existence. Winnett is smudged with oil; the fumes of the product permeate the atmosphere." Although the region suffered much from the droughts, the article continued, ". . . many farmers who stayed through the drought of 1917-1920 witnessed the miracle of seeing their parched lands yield 'black gold' in fabulous amounts."<sup>1</sup> Yet by 1931, when Petroleum County was but six years old, editor Doherty had relocated in western Montana as proprietor of the Missoula County Times.<sup>2</sup>

Today Petroleum County has little oil (the fields produced 176,610 barrels in 1962) and few other industries.<sup>3</sup> The 1962-63 Montana Almanac Statistical Supplement listed the county in last place in industrialemployment of labor. Agriculture was the major industry of the county. Of the 367 employed by major industry in the county, 222 were engaged in agriculture; 15 in construction; 14 in manufacturing; 23 in trade; 62 in

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<sup>1</sup>Federal Writers' Project of the Work Projects Administration for the State of Montana, Montana, A State Guide Book, Sponsored by the Department of Agriculture, Labor and Industry, State of Montana (New York: Hastings House Publishers, 1939), p. 317.

<sup>2</sup>Who's Who in the West (Chicago: The A. N. Marquis Co., 1949), p. 240.

<sup>3</sup>Twenty-first Biennial . . . Board of Equalization . . ., p. 34.

services and finances; 7 in transportation and utilities and 7 unemployed. In 1959 Petroleum County had 124 farms and ranches, ranking fifty-third in that respect. Cash receipts from farm marketings totalled \$2,152,000 in 1959; cash crops brought \$304,000 and livestock and products a substantial \$1,847,000. Finally, in the number of retail establishments, Petroleum County ranked fifty-fifth of Montana's counties; the sparsely-built trade center had but 13 such establishments along with nine service establishments.<sup>1</sup>

Accompanying the decline and final near cessation of oil production and changes in agriculture came a reduction in population. Petroleum County today has the smallest population of Montana's counties. The 1960 census recorded fewer than nine hundred persons living in Petroleum's 1,650 square miles. A continued decrease was evident after 1930. In that year the census recorded 2,045 persons in Petroleum; by 1940, that number had dropped to 1,083--a decrease of 47 per cent.<sup>2</sup> By 1950, Petroleum had experienced yet another reduction in population, falling to 1,026. Again in 1960, the population declined to 894, a 12.9 per cent decrease. With but 894 persons, the population density of Petroleum County was but 0.5 persons per square mile.<sup>3</sup> By 1964, it had dropped another 11 per cent.<sup>4</sup>

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<sup>1</sup>The Montana Almanac, 1962-63 Statistical Supplement, Bureau of Business and Economic Research, School of Business Administration, Montana State University (Missoula: Montana State University Printing Department, 1962), p. 103.

<sup>2</sup>U.S. Bureau of the Census, Fifteenth Census of the United States: 1930. Population, II Part 2, 18; and Sixteenth Census of the United States: 1940. Population, I, 617.

<sup>3</sup>U.S. Bureau of the Census, Seventeenth Census of the United States: 1950. Population, I, 26-12; and Eighteenth Census of Population: 1960, I, Part 28, 28-20. Cited hereafter as Eighteenth Census . . . 1960, I.

<sup>4</sup>The Montana Citizen, December 23, 1965.

Today's Petroleum County scarcely resembles the county formed by petition and election during the oil enthusiasm of 1920-1925.

During the period 1910-1920 called the "county-busting era" in Montana, the creation of seventeen of the counties stemmed from the passage of the Leighton Act in 1911. This act, which permitted creation by local petition and election, facilitated creation by putting it in the hands of those locally involved. Thus, the Leighton Act placed the creation of local governments beyond the rational control of the legislators where the Montana Constitution had placed such power. The demands for the new counties which flooded the legislature during the decade must have been frustrating--clogging the legislative mills, obstructing the consideration of other bills, and subjecting the legislators to "log-rolling" pressures. Yet in retrospect, the passage of a bill to create counties by other than legislative resolution seems like a grave default of legislative control over the pattern of local government. All citizens of Montana were directly affected. While it is undoubtedly easier to see with forty years hindsight, the negative ramifications of placing creation of counties in the hands of those locally and more emotionally involved suggest such a conclusion. Population figures in 1960 disclosed beyond a doubt that the enthusiastic expectations about future growth of the newly created counties simply were not fulfilled. Of the twenty-eight counties formed after 1910, twenty-one now incorporate smaller populations than at the time of formation.<sup>1</sup> Of these latter, eleven were created by petition and election.

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<sup>1</sup>Eighteenth Census . . . 1960, I.

Yet another conclusion concerning legislative policy can be suggested. The legislative policy of 1919 which stipulated that no new county bill would pass in the legislature if there were contention within the area affected was among the most sensible of the policies of that legislature in dealing with county formation. Without that policy, numerous other counties undoubtedly would have been formed in that session. Indeed, bills for creation of either a Cruse or McKinley County from eastern Fergus might then have been enacted. But legislative policy on this point prevailed and prevented the creation of several questionably viable counties at that time.

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